

Exhibit 4

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UNITED STATES OF AMERICA

FEDERAL TRADE COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the Matter of :

:

MICROSOFT CORPORATION, :

a corporation, :

: Docket No. 9412

and :

:

ACTIVISION BLIZZARD, INC., :

a corporation. :

- - - - - X

**** HIGHLY CONFIDENTIAL ****

Remote Videotaped Deposition of JEFF FISHER

Friday, April 14, 2023

9:03 a.m. (PDT)

Job No. 6357891

Pages: 1 - 159

Reported by: Dana C. Ryan, RPR, CRR

April 14, 2023

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 April 14, 2023</p> <p>6 9:03 a.m. (PDT)</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Remote Videotaped Deposition of JEFF</p> <p>11 FISHER, held via Zoom video teleconference, before</p> <p>12 Dana C. Ryan, Registered Professional Reporter,</p> <p>13 Certified Realtime Reporter, State of Georgia</p> <p>14 Certified Court Reporter, State of Washington</p> <p>15 Certified Court Reporter and Notary Public in and</p> <p>16 for the State of Alabama and the District of</p> <p>17 Columbia.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2</p> <p>3 ON BEHALF OF MICROSOFT CORPORATION:</p> <p>4 KERI ARNOLD, ESQ.</p> <p>5 PIRZADA AHMAD, ESQ.</p> <p>6 Wilkinson Stekloff LLP</p> <p>7 2001 M Street, Northwest</p> <p>8 10th Floor</p> <p>9 Washington, D.C. 20036</p> <p>10 Telephone: (202) 847-4000</p> <p>11 Email: karnold@wilkinsonstekloff.com</p> <p>12 Email: pahmad@wilkinsonstekloff.com</p> <p>13</p> <p>14</p> <p>15 ON BEHALF OF ACTIVISION:</p> <p>16 BRADLEY J. PIERSON, ESQ.</p> <p>17 Skadden Arps Slate Meagher & Flom, LLP</p> <p>18 One Manhattan West</p> <p>19 New York, New York 10001</p> <p>20 Telephone: (212) 735-3000</p> <p>21 Email: bradley.pierson@skadden.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:</p> <p>4 JAMES WEINGARTEN, ESQ.</p> <p>5 J. ALEXANDER ANSALDO, ESQ.</p> <p>6 U.S. Federal Trade Commission</p> <p>7 Bureau Of Competition</p> <p>8 Office Of Policy And Coordination</p> <p>9 600 Pennsylvania Avenue, Northwest</p> <p>10 Washington, D.C. 20580</p> <p>11 Telephone: (202) 326-3274</p> <p>12 Email: jweingarten@ftc.gov</p> <p>13 Email: jansaldo@ftc.gov</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2</p> <p>3 ON BEHALF OF NVIDIA:</p> <p>4 MIKE BONANNO, ESQ.</p> <p>5 Quinn Emanuel Urquhart & Sullivan, LLP</p> <p>6 1300 I Street, Northwest</p> <p>7 Suite 900</p> <p>8 Washington, D.C. 20005</p> <p>9 Telephone: (202) 538-8000</p> <p>10 Email: mikebonanno@quinnemanuel.com</p> <p>11</p> <p>12</p> <p>13 Also present:</p> <p>14 James Budkins, Videographer</p> <p>15 Aline Zam-Vieira O'Clair</p> <p>16 Esther Smith</p> <p>17 Albert Ramey-Speed</p> <p>18 Azadeh Morrison</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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2			2	(Attached to the Transcript)	
3	EXAMINATION OF JEFF FISHER:	PAGE:	3	RX	PAGE:
4	By Mr. Weingarten	12	4	Exhibit 0285 May 24, 2021 Email Chain;	137
5	By Ms. Arnold	119	5	RX0285-001 Through 002	
6	By Mr. Weingarten	146	6	Exhibit 0290 December 2022 And January	130
7			7	2023 Email Chain;	
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9			9	Exhibit 0299 February 21, 2023 Microsoft	120
10	E X H I B I T S		10	Press Release Titled	
11	(Attached to the Transcript)		11	Microsoft And Nvidia	
12	PX	PAGE:	12	Announce Expansive New	
13	Exhibit 3103 January 9, 2023 Notes Of	43	13	Gaming Deal; RX0299-001	
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15	Via Microsoft Teams;		15		
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1	E X H I B I T S C O N T I N U E D	Page 7	1	P R O C E E D I N G S	Page 9
2	(Attached to the Transcript)		2	THE VIDEOGRAPHER: We are on the record	
3	PX	PAGE:	3	at 1603 UTC on April 14, 2023. Please note that	
4	Exhibit 3141 Article Titled Nvidia	26	4	audio and video recording will continue to take	
5	Brings RTX 4080 To GeForce		5	place unless all parties agree to go off the	
6	NOW; PX3141-001 Through 002		6	record. Microphones are sensitive and may pick up	
7	Exhibit 3148 January 2020 Email Chain;	81	7	whispering and private conversations.	
8	PX3148-001 Through 002		8	This is the video-recorded proceeding	
9	Exhibit 3199 April 13, 2023 Slide Deck	69	9	of Jeff Fisher, In re: Microsoft Corp. and	
10	Titled Nvidia GFN Business		10	Activision Blizzard, Inc.	
11	Review - March 2023		11	This proceeding is being held via	
12			12	remote video conference. My name is James	
13			13	Budkins. I'm the videographer on behalf of U.S.	
14			14	Legal Support located at 16825 North Chase Drive,	
15			15	Suite 900, Houston, Texas 77060.	
16			16	I'm not related to any party in this	
17			17	action nor am I financially interested in the	
18			18	outcome.	
19			19	The court reporter is Dana Ryan on	
20			20	behalf of U.S. Legal Support.	
21			21	Counsel and all present will state	
22			22	their appearances for the record after which the	
23			23	court reporter will enter the statement for remote	
24			24	proceeding into the record and swear in the	
25			25	witness.	

<p style="text-align: right;">Page 10</p> <p>1 MR. WEINGARTEN: Good morning. My name</p> <p>2 is James Weingarten. I'm an attorney with the</p> <p>3 Federal Trade Commission. Alex Ansaldo,</p> <p>4 A-N-S-A-L-D-O, is also an attorney with the FTC,</p> <p>5 and he's here with me today.</p> <p>6 MS. ARNOLD: Good morning. Keri Arnold</p> <p>7 from Microsoft, and here with me is Pirzada Ahmad,</p> <p>8 also on behalf of Microsoft.</p> <p>9 MR. BONANNO: Good morning, everyone.</p> <p>10 Mike Bonanno from Quinn Emanuel on behalf of</p> <p>11 Nvidia and the witness, Jeff Fisher.</p> <p>12 And before we get started, I'll just go</p> <p>13 ahead and put it in the record that we would like</p> <p>14 today's transcript to be treated with the highest</p> <p>15 level of confidentiality under both the case</p> <p>16 protective order and applicable statutes and</p> <p>17 regulations. I expect that during the questioning</p> <p>18 today we'll get into a number of business secrets</p> <p>19 and confidential information for Nvidia that</p> <p>20 should be shielded from public view including with</p> <p>21 respect to FOIA requests.</p> <p>22 MR. PIERSON: My name is Brad Pierson</p> <p>23 from Skadden for Activision.</p> <p>24 THE COURT REPORTER: All right. I'm</p> <p>25 going to read the statement into the record.</p>	<p style="text-align: right;">Page 12</p> <p>1 EXAMINATION BY COUNSEL FOR THE</p> <p>2 FEDERAL TRADE COMMISSION</p> <p>3 BY MR. WEINGARTEN:</p> <p>4 Q Mr. Fisher, good morning. My name is</p> <p>5 James Weingarten. I'm an attorney with the</p> <p>6 Federal Trade Commission. I'm going to be asking</p> <p>7 you some questions today.</p> <p>8 How are you today?</p> <p>9 A I'm doing well. How are you?</p> <p>10 Q Fine. Thank you.</p> <p>11 You understand now that you are under</p> <p>12 oath as if you were testifying in a courtroom?</p> <p>13 A I do, yes.</p> <p>14 Q Okay. Is there any reason that you</p> <p>15 would not be able to testify truthfully and</p> <p>16 accurately today?</p> <p>17 A None whatsoever.</p> <p>18 Q Where are you located?</p> <p>19 [REDACTED]</p> <p>20 Q Okay. Is there anyone in the room with</p> <p>21 you?</p> <p>22 A There's not.</p> <p>23 Q I want to remind you, in case your</p> <p>24 counsel has not, that you should not be</p> <p>25 communicating with anyone about the substance of</p>
<p style="text-align: right;">Page 11</p> <p>1 The attorneys participating in this</p> <p>2 deposition acknowledge that I am not physically</p> <p>3 present in the deposition room and that I will be</p> <p>4 reporting this deposition remotely.</p> <p>5 They further acknowledge that, in lieu</p> <p>6 of an oath administered in person, the witness</p> <p>7 will be sworn remotely and declare his testimony</p> <p>8 in this matter is under penalty of perjury.</p> <p>9 The parties and their counsel consent</p> <p>10 to the arrangement and all objections are waived</p> <p>11 to this manner of reporting unless so indicated at</p> <p>12 this time.</p> <p>13 (Brief pause.)</p> <p>14 THE COURT REPORTER: Hearing no</p> <p>15 objections, I consider this to be amiable to all</p> <p>16 counsel.</p> <p>17 So if I could have the witness please</p> <p>18 raise your right hand.</p> <p>19 *****</p> <p>20 JEFF FISHER,</p> <p>21 having been duly sworn, testified as follows:</p> <p>22 *****</p> <p>23 THE COURT REPORTER: Great.</p> <p>24 Counsel, we may begin.</p> <p>25</p>	<p style="text-align: right;">Page 13</p> <p>1 your deposition today while the deposition is</p> <p>2 underway. The only exception is if you need to</p> <p>3 discuss a question of attorney-client privilege</p> <p>4 with your attorney, and we can handle that if it</p> <p>5 should arise.</p> <p>6 You understand you're not to</p> <p>7 communicate with anybody about the substance of</p> <p>8 your testimony today?</p> <p>9 A I understand.</p> <p>10 Q No notes, no emails, no texts, okay?</p> <p>11 A Understand.</p> <p>12 Q Okay. You joined Nvidia in 1994?</p> <p>13 A That's right.</p> <p>14 Q You are a senior vice president</p> <p>15 currently?</p> <p>16 A I am.</p> <p>17 Q You're responsible for Nvidia's gaming</p> <p>18 business unit?</p> <p>19 A I am.</p> <p>20 Q And is that business unit also referred</p> <p>21 to as the GeForce unit or GeForce business?</p> <p>22 A You probably described it as good as</p> <p>23 anybody has. There's no official name for the</p> <p>24 business unit.</p> <p>25 Q Okay. And when did you become</p>

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<p style="text-align: right;">Page 14</p> <p>1 responsible for the gaming business unit at</p> <p>2 Nvidia?</p> <p>3 A Approximately 2005.</p> <p>4 Q And GeForce, G-E-F-O-R-C-E, is the</p> <p>5 brand name for Nvidia's personal computer GPU</p> <p>6 business; correct?</p> <p>7 A That's correct.</p> <p>8 Q And GPU stands for graphics processing</p> <p>9 unit?</p> <p>10 A That's correct.</p> <p>11 Q And do your responsibilities include</p> <p>12 responsibility for GeForce NOW?</p> <p>13 A It includes that, yes.</p> <p>14 Q And your responsibilities also include</p> <p>15 overseeing the sale and business of Nvidia's GPUs</p> <p>16 for use in the gaming industry?</p> <p>17 A Yeah, it does. Yeah.</p> <p>18 Q And GeForce NOW is Nvidia's cloud</p> <p>19 gaming streaming service; correct?</p> <p>20 A That's correct.</p> <p>21 Q And it launched in or around June of</p> <p>22 2017?</p> <p>23 A That's correct. Officially, yes.</p> <p>24 Q And when it launched, it launched in</p> <p>25 what was called a beta, B-E-T-A, phase; is that</p>	<p style="text-align: right;">Page 16</p> <p>1 in relation to gaming?</p> <p>2 A Tegra is used most notably in a</p> <p>3 Nintendo Switch handheld gaming device.</p> <p>4 Q And what is its function in general lay</p> <p>5 terms, if you can, in the Switch?</p> <p>6 A Well, it is the CPU and GPU combined.</p> <p>7 It is a complete, really, computer outside of</p> <p>8 memory and display and other parts. But it is --</p> <p>9 it is the computer inside of a handheld gaming</p> <p>10 device as well as other devices.</p> <p>11 Q Is it fair to say that the Tegra system</p> <p>12 on a chip runs the games that play on the Switch?</p> <p>13 A It's an important part of it. I mean,</p> <p>14 I think there's other components required, but it</p> <p>15 is -- it is an important part of what runs the</p> <p>16 games on Switch, yes.</p> <p>17 Q Okay. And does the Tegra chipset power</p> <p>18 the graphics on the Switch?</p> <p>19 A Yes.</p> <p>20 Q And when it was launched, Tegra was the</p> <p>21 first system on a chip for graphics processing to</p> <p>22 achieve one teraflop of graphics performance;</p> <p>23 correct?</p> <p>24 A I'm sorry. Say that again.</p> <p>25 Q When it was announced, Tegra was the</p>
<p style="text-align: right;">Page 15</p> <p>1 right?</p> <p>2 A It did.</p> <p>3 Q And during the beta phase, GeForce NOW</p> <p>4 was free for users; correct?</p> <p>5 A That's correct.</p> <p>6 Q And the beta phase of GeForce NOW ended</p> <p>7 in or around February of 2020; is that right?</p> <p>8 A I believe that's correct, yes.</p> <p>9 Q And at that time when the beta phase</p> <p>10 concluded, Nvidia started charging users for</p> <p>11 access to certain tiers of GeForce NOW?</p> <p>12 A For certain tiers, yes. There remained</p> <p>13 a free access, but also a paid tier.</p> <p>14 Q I want to talk to you a little bit</p> <p>15 about the PC GPU piece of the business you</p> <p>16 oversee.</p> <p>17 Does Nvidia manufacture and market a</p> <p>18 GPU called the Tegra, T-E-G-R-A, X1?</p> <p>19 A Well, Tegra is what we call an SoC,</p> <p>20 system on a chip, but we do have a product called</p> <p>21 Tegra, yes.</p> <p>22 Q Okay. And is the Tegra system on a</p> <p>23 chip a product that is used in PC gaming?</p> <p>24 A It's not.</p> <p>25 Q Where is the Tegra X1 GPU product used</p>	<p style="text-align: right;">Page 17</p> <p>1 first system on a chip graphics processing that</p> <p>2 achieved one teraflop of graphics performance;</p> <p>3 correct?</p> <p>4 MR. BONANNO: Objection to form.</p> <p>5 THE WITNESS: I don't recall. I -- I</p> <p>6 don't recall.</p> <p>7 BY MR. WEINGARTEN:</p> <p>8 Q Is a teraflop, T-E-R-A-F-L-O-P, a</p> <p>9 measure of graphics processing power?</p> <p>10 A Teraflops are a -- one metric of</p> <p>11 peak -- of graphics processing power. They're a</p> <p>12 single metric, and they are generally specified in</p> <p>13 terms of peak performance measured by some</p> <p>14 benchmark.</p> <p>15 Q Okay. Is it correct that the more</p> <p>16 teraflops a GPU or a system on a chipset offers,</p> <p>17 the better the potential gaming experience that</p> <p>18 comes from running games using that chip?</p> <p>19 MR. BONANNO: Objection to form.</p> <p>20 BY MR. WEINGARTEN:</p> <p>21 Q You can answer, sir.</p> <p>22 A Okay. From a -- from a marketing</p> <p>23 perspective, teraflops are related to graphics</p> <p>24 performance. There is not always a direct</p> <p>25 correlation between a marketed teraflop number and</p>

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<p style="text-align: right;">Page 18</p> <p>1 the experienced gaming performance.</p> <p>2 Q And when you say in marketing, does</p> <p>3 Nvidia market the peak teraflop performance of its</p> <p>4 chips as a proxy for improved gaming performance?</p> <p>5 A When they're good, yes, we generally</p> <p>6 use them for marketing.</p> <p>7 Q Okay. And does Nvidia tell -- strike</p> <p>8 that.</p> <p>9 In its marketing, Nvidia tells users</p> <p>10 that it -- we can -- that a chip that Nvidia</p> <p>11 offers has more teraflops, then it is likely the</p> <p>12 user will experience a better gaming experience</p> <p>13 using that chip?</p> <p>14 MR. BONANNO: Objection to form.</p> <p>15 THE WITNESS: We will -- when -- when</p> <p>16 it -- when it is favorable, we will generally link</p> <p>17 teraflops to gaming performance.</p> <p>18 BY MR. WEINGARTEN:</p> <p>19 Q And more teraflops means better gaming</p> <p>20 performance?</p> <p>21 A That -- that's how we -- that's how we</p> <p>22 position it, yes.</p> <p>23 Q Nvidia's latest gaming GPU is the RTX</p> <p>24 4080; right?</p> <p>25 A We -- we have a -- it -- it -- that's</p>	<p style="text-align: right;">Page 20</p> <p>1 performance than the Tegra?</p> <p>2 A Yes.</p> <p>3 Q Okay. Do you have any sense or</p> <p>4 understanding of the magnitude of the difference</p> <p>5 between the teraflop performance of a 4000 series</p> <p>6 versus a Tegra?</p> <p>7 MR. BONANNO: Objection to form.</p> <p>8 THE WITNESS: Not -- I don't -- I don't</p> <p>9 have a -- I would -- I -- I -- it -- it is -- it</p> <p>10 is a -- it is large, but I wouldn't -- I don't</p> <p>11 have any metric of factors between the two.</p> <p>12 BY MR. WEINGARTEN:</p> <p>13 Q When Nvidia is developing and launching</p> <p>14 a new series of GPUs for gaming, does Nvidia's</p> <p>15 gaming business work with game developers to</p> <p>16 optimize the work -- the interplay between the</p> <p>17 game -- a game and the new chipset?</p> <p>18 A We do, yes.</p> <p>19 Q Okay. And why do you do that?</p> <p>20 A Well, there's -- it -- it -- I -- I</p> <p>21 would say it -- it depends, but what -- the most</p> <p>22 common reason is for interplayability to make sure</p> <p>23 that the game is fully compatible with our new --</p> <p>24 newest device. While every device is -- is</p> <p>25 backward compatible -- it will run games that</p>
<p style="text-align: right;">Page 19</p> <p>1 one of our latest ones, yes.</p> <p>2 Q Is there also a 4090?</p> <p>3 A There is, yes.</p> <p>4 Q Okay. And is there a way you -- if I</p> <p>5 refer to those as the 4080 series or -- strike</p> <p>6 that.</p> <p>7 How in Nvidia do you refer to this</p> <p>8 latest series of chips, GPUs that were launched in</p> <p>9 and around 2023?</p> <p>10 A I would refer to them as the 4000</p> <p>11 series.</p> <p>12 Q Is the 4000 series the latest Nvidia</p> <p>13 GPU processor for PC gaming to be launched into</p> <p>14 the market?</p> <p>15 A It is, yes.</p> <p>16 Q And is that 4000 series codenamed Ada</p> <p>17 Lovelace at Nvidia?</p> <p>18 A Yeah, that's -- it has -- it has an Ada</p> <p>19 Lovelace -- that's the code name for the</p> <p>20 architecture, but generally speaking, yeah, that's</p> <p>21 the code name for the device.</p> <p>22 Q The RTX 4000 series delivers a peak</p> <p>23 performance of more than 64 teraflops; correct?</p> <p>24 A I don't recall the exact number.</p> <p>25 Q Does it deliver more teraflops of peak</p>	<p style="text-align: right;">Page 21</p> <p>1 exist in the market -- there are also changes to</p> <p>2 every device. Our Ada Lovelace architecture is</p> <p>3 different than our prior architecture which was</p> <p>4 our Ampere architecture.</p> <p>5 So we need to make sure that when we</p> <p>6 sell a product and gamers install it in their</p> <p>7 systems, it will run not just the latest games but</p> <p>8 previous games without any compatibility issues.</p> <p>9 So we will do our own testing and then work with</p> <p>10 game developers to make sure it not only runs well</p> <p>11 but runs as best it can on our latest hardware.</p> <p>12 There are -- the other reason most</p> <p>13 common is that with our new architectures, we add</p> <p>14 additional features that games can take advantage</p> <p>15 of. And we need to teach game developers and work</p> <p>16 with them so they understand how to modify their</p> <p>17 games to take advantage of the latest features in</p> <p>18 our -- in our GPUs.</p> <p>19 Q Is ray tracing one of the features that</p> <p>20 Nvidia offers as part of its GPUs?</p> <p>21 A It is. Relatively new feature.</p> <p>22 Q When you say "relatively new," do you</p> <p>23 have an estimate of when the ray tracing feature</p> <p>24 became available?</p> <p>25 A We introduced ray tracing in 2018 with</p>

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<p style="text-align: right;">Page 22</p> <p>1 our Turing architecture, and we've added</p> <p>2 functionality and performance with each</p> <p>3 architecture since.</p> <p>4 Q Do you know what architecture the Tegra</p> <p>5 runs on?</p> <p>6 A There have been several generations of</p> <p>7 Tegra. I'm not exactly sure what generation is in</p> <p>8 the -- in the latest, the newest Tegra or</p> <p>9 specifically what's in the Nintendo Switch, what</p> <p>10 generation of graphics is in that device.</p> <p>11 Q Do you know if the Tegra that is in the</p> <p>12 Nintendo Switch supports ray tracing?</p> <p>13 A I don't -- yeah, I don't believe it</p> <p>14 does, no.</p> <p>15 Q Is there an acronym for a feature that</p> <p>16 involves ray tracing that Nvidia has that is RTX?</p> <p>17 A RTX is -- is a -- more of a brand name</p> <p>18 for devices that support ray tracing. The</p> <p>19 RTX 4000, 4080, RTX 4090.</p> <p>20 Q And the Tegra is not designated as an</p> <p>21 RTX chipset; right?</p> <p>22 A It's not.</p> <p>23 Q Is Reflex, R-E-F-L-E-X, technology</p> <p>24 another feature that Nvidia has introduced to</p> <p>25 improve game performance?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q What is DLSS?</p> <p>2 A DLSS stands for deep learning super</p> <p>3 sampling, which is a way to improve -- uses deep</p> <p>4 learning or artificial intelligence to improve</p> <p>5 game performance.</p> <p>6 Q And have there been multiple</p> <p>7 generations of the DLSS feature?</p> <p>8 A There's been multiple improvements on</p> <p>9 DLSS, yes.</p> <p>10 Q And is the latest version of DLSS,</p> <p>11 DLSS 3?</p> <p>12 A It is, yes.</p> <p>13 Q What -- strike that.</p> <p>14 Can the Tegra chipset support DLSS?</p> <p>15 A The latest Tegra chipset has the</p> <p>16 capability to support some level of DLSS, yes.</p> <p>17 Q And is that latest Tegra that you just</p> <p>18 referred to in the Nintendo Switch or not yet?</p> <p>19 A I -- I believe it is -- the current</p> <p>20 Nintendo Switch is capable of implementing DLSS,</p> <p>21 but not at the performance of the current version</p> <p>22 of DLSS.</p> <p>23 Q So is it your understanding that the</p> <p>24 Tegra chip that is in a Switch would function to</p> <p>25 support DLSS 1, but not DLSS 3?</p>
<p style="text-align: right;">Page 23</p> <p>1 A It is, yes.</p> <p>2 Q Does Reflex technology help improve</p> <p>3 latency in game play?</p> <p>4 A Yes, that's -- that's its -- Reflex is</p> <p>5 designed to improve latency, yes.</p> <p>6 Q And latency is a term for the lag</p> <p>7 between when a gamer does something with their</p> <p>8 keyboard or joystick or other input device and</p> <p>9 when the action manifests itself in the game?</p> <p>10 A That's correct.</p> <p>11 Q And less latency -- lower latency is</p> <p>12 generally correlated with a better game</p> <p>13 experience?</p> <p>14 A That's -- that's correct, yes.</p> <p>15 Q Okay. And to make Reflex technology --</p> <p>16 strike that.</p> <p>17 For a game to take advantage of the</p> <p>18 Reflex technology that Nvidia offers, does that</p> <p>19 require collaboration between Nvidia and the game</p> <p>20 developer?</p> <p>21 A It does, yes.</p> <p>22 Q Is there another feature that Nvidia</p> <p>23 has introduced referred to by the initials</p> <p>24 D-L-S-S?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 A It's never been implemented as far as I</p> <p>2 know, so I don't know that I could say that with</p> <p>3 certainty, no.</p> <p>4 Q And even if the Tegra chipset has the</p> <p>5 capability to support an older version of DLSS,</p> <p>6 what would be required to turn that on and enable</p> <p>7 that for a Switch?</p> <p>8 A A lot of software work on our part,</p> <p>9 Nintendo's part and the game developer's part.</p> <p>10 Q And is it something that could be</p> <p>11 turned on for existing Switches that have already</p> <p>12 been sold with Tegas or something that would have</p> <p>13 to happen that would be with new Switches with new</p> <p>14 Tegas that would have this software work?</p> <p>15 A I don't know the answer to that</p> <p>16 specifically. I know you're asking a lot of</p> <p>17 questions about Switch. I mean, that is not in my</p> <p>18 domain, in my -- in my group. So I'm not being</p> <p>19 vague. I'm just trying to answer as best I can.</p> <p>20 But I -- but I don't know the answer --</p> <p>21 I don't know the answer if -- how we -- if it's</p> <p>22 possible to -- to implement it without some change</p> <p>23 on Nintendo's side of Switch.</p> <p>24 Q Who at Nvidia is responsible for the</p> <p>25 collaboration with Nintendo Switch?</p>

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED].
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED].
 10 [REDACTED]
 11 [REDACTED].
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 Q Did you ever -- strike that.
 16 As part of your responsibilities for
 17 GeForce, do you have any input with respect to the
 18 Switch?
 19 A No. No direct input.
 20 MR. WEINGARTEN: Okay. Let's take a
 21 look and introduce, please, Plaintiff's
 22 Exhibit 3141.
 23 (PX Deposition Exhibit 3141 was
 24 identified for the record and attached to the
 25 transcript.)

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1 BY MR. WEINGARTEN:
 2 Q That's a document, sir, that should
 3 appear in the Box in a few minutes.
 4 A Okay.
 5 Q 3141.
 6 And while we're waiting for that, sir,
 7 I want to be clear, when you were answering
 8 questions about the features for the Tegra
 9 regarding its support or lack of support for ray
 10 tracing or Reflex technology, were you guessing or
 11 is that information you know?
 12 MR. BONANNO: Objection to form.
 13 Are there particular questions that you
 14 want to go back and ask him whether he has
 15 firsthand knowledge? You asked a lot of questions
 16 in that --
 17 MR. WEINGARTEN: No.
 18 MR. BONANNO: -- category,
 19 Mr. Weingarten.
 20 MR. WEINGARTEN: That's okay. You can
 21 strike the question.
 22 BY MR. WEINGARTEN:
 23 Q Let's hit refresh on the Box, sure, and
 24 I think that'll show you PX3141, so if you'll
 25 refresh your browser screen, please.

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1 A Refresh my browser. Okay. I see it.
 2 Q Okay. If you click open the document,
 3 please, it will open in your -- I believe it opens
 4 it in your browser.
 5 A Yeah, I see it.
 6 Q Okay. The document is titled Nvidia
 7 Brings RTX 4080 to GeForce NOW.
 8 Do you see that?
 9 A I do, yes.
 10 Q Okay. Previously you said you couldn't
 11 remember the teraflops for the 4000 series. I
 12 want you to look at the second paragraph to the
 13 document, please, and read it to yourself.
 14 It starts with "Powered by."
 15 MR. BONANNO: Mr. Fisher, you should
 16 feel free to review as much of the document as you
 17 want before answering Mr. Weingarten's next
 18 question.
 19 THE WITNESS: Yeah, let me just scan it
 20 briefly and then I'll come back to the second
 21 paragraph. Thanks.
 22 BY MR. WEINGARTEN:
 23 Q You may. I'll tell you my question if
 24 it helps you with your scanning.
 25 A Sure.

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1 Q My question is going to be: Does this
 2 refresh you that Nvidia marketed the RTX 4080 as
 3 delivering over 64 teraflops of graphics
 4 performance?
 5 Please look at what you need to look at
 6 to answer that question.
 7 A (Witness reviews document.) Okay.
 8 Q So does that refresh your recollection
 9 that the RTX 4080 is capable of delivering over 64
 10 teraflops of graphics horsepower?
 11 A I -- yes, the -- I -- it -- it -- it
 12 does. This is the RTX 4080 SuperPOD which is the
 13 RTX 4080 that we've -- we branded an RTX 4080 for
 14 GeForce NOW, so that -- that's going to have
 15 different performance than the 4080 marketed just
 16 to PC buyers.
 17 Q Okay. So --
 18 A But --
 19 Q Go ahead, please.
 20 A No, that's it.
 21 Q So Nvidia marketed the performance of
 22 the chipset RTX 4080 that it was bringing to
 23 GeForce NOW as having over 64 teraflops of
 24 graphics horsepower; correct?
 25 A That's correct.

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1 Q And Nvidia marketed publicly that that
2 performance was more than five times that of an
3 Xbox Series X console; correct?

4 A That the teraflop -- peak teraflop
5 metric of our SuperPODS was more than 5X of a Xbox
6 Series X, yes.

7 Q And Xbox Series X is a video game
8 console device; right?

9 A That's right.

10 Q Would you consider the Xbox Series X to
11 be a high-performance console device?

12 A Well, I'm a little biased that way. I
13 think that our products are always better than
14 Xbox Series X, so I would -- not from my
15 perspective, but maybe from others. I don't know.

16 Q Do you have a similar answer with
17 respect to the PlayStation 5?

18 A It's a relative question. I mean, I
19 believe in -- PC gaming will always be better than
20 console, so . . .

21 Q Do you have a view of the relative
22 performance of Xbox Series X and Nintendo Switch?

23 A Not a specific X factor, but I -- an
24 Xbox Series X is -- in terms of delivered
25 performance is much faster than a Nintendo Switch.

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1 Q PlayStation 5 much faster than a
2 Nintendo Switch in terms of delivered performance?

3 A That would -- yes, I believe that to be
4 the case.

5 Q Okay. When I asked you before about
6 whether the Tegra supports ray tracing, you said
7 you believe it does not support ray tracing;
8 correct?

9 A Yeah, I -- I did. I mean, I -- the --
10 one thing I -- let me just explain that ray
11 tracing can be fully implemented in software.
12 When we talk about ray tracing as a technology, it
13 could run on CPU. It could run on -- it could run
14 on anything. It -- it -- it would just be not
15 performant.

16 So -- so ray tracing on a Nintendo
17 Switch technically could it be made to work? Yes.
18 Practically would it work? No.

19 Q What is the basis for what you just
20 told me? How do you know that?

21 A Well, I -- my -- I -- I know the ray
22 tracing will run in software because we can get it
23 to run on devices that are pre-RTX that do not
24 have dedicated ray tracing hardware --
25 acceleration hardware in it.

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1 The purpose of RTX was to add dedicated
2 hardware to allow ray tracing to run in realtime
3 to play games.

4 Q And are you saying that while you could
5 run ray tracing on Nintendo Switch, it would be,
6 in your words, nonperformant on an Nintendo
7 Switch?

8 A Yes.

9 Q What is your basis for understanding
10 that ray tracing would be nonperformant on a
11 Nintendo Switch?

12 A Nintendo Switch does not have dedicated
13 ray tracing hardware, but I -- I -- it is a --
14 based on my understanding of the technology. I --
15 I -- I don't have a scientific formula to give you
16 that would provide a proof. It's just from my
17 experience working with this technology on -- in
18 my organization.

19 Q I appreciate that.

20 When we were talking about
21 collaborations between game developers and
22 Nvidia-made features that Nvidia's offering
23 performant, does that take engineering time to
24 make those collaborations work?

25 A It does.

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1 Q Does it take investment in terms of --
2 well, strike that.

3 What are the kinds of investments that
4 are required to make a collaboration for something
5 like DLSS 3 work with a game?

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q And does QA stand for quality

23 assurance?

24 A It does, yes.

25 Q So is it fair to say it's an iterative

Page 34

1 process between Nvidia and the game developer to
2 make sure a game is utilizing the capability and
3 performant with the capability that Nvidia is
4 offering?

5 A Generally speaking, yes. Some more so
6 than others.

7 Q In the course of this collaboration
8 that we've been discussing, is there an exchange
9 between Nvidia and the developer of competitively
10 sensitive information?

11 A I -- I guess I -- I need to understand
12 what you mean by "competitively sensitive."

13 Q In order to optimize a game to use and
14 be performing with Nvidia features, is Nvidia
15 given access to information about the game that's
16 not shared with others or would be considered
17 competitively sensitive information?

18 MR. BONANNO: Objection to form.

19 THE WITNESS: [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

Page 35

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 BY MR. WEINGARTEN:

20 Q And putting aside your competitors for
21 chips, just in terms of relationship between
22 Nvidia and a game developer, do you know if Nvidia
23 requires a developer to sign a nondisclosure
24 agreement before the developer can access the
25 sensitive information about chipset?

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1 A Yeah, I -- I --

2 MR. BONANNO: Objection -- objection to
3 form.

4 THE WITNESS: I -- I -- it's typical we
5 would sign a mutual nondisclosure agreement for
6 any engagement like that.

7 BY MR. WEINGARTEN:

8 Q Nvidia has worked in the past with
9 Activision Blizzard, Inc., to optimize games, make
10 them performant within Nvidia GPUs; correct?

11 A We have over the course of time, yes.

12 Q And I'm -- Activision Blizzard, Inc.,
13 is a bit of a mouthful. I might just call it
14 Activision for short, but I know there's also a
15 Blizzard business unit. If I use Activision and
16 you think it's not clear, please correct me, okay?
17 Otherwise, I'm generally going to refer to
18 Activision to refer to the whole company, okay?

19 A Okay.

20 Q But if there's any confusion on your
21 end, please, let me know. We want to make sure we
22 have a clear record.

23 Has Nvidia collaborated in the past
24 with Activision to make titles in the Call of Duty
25 franchise performant on Nvidia GPUs?

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1 A We have, yes.

2 Q Okay. Do you have an understanding of
3 how long there has been a collaborative
4 relationship between Nvidia and Activision to make
5 Nvidia games performant on Nvidia GPUs?

6 A It's been some number of years. I
7 don't recall when -- when we first started working
8 with Activision or Blizzard as separate companies.

9 Q Are you familiar with an Nvidia feature
10 called ray-traced AO?

11 A I'm familiar with -- generally familiar
12 with ray-traced AO, yes.

13 Q What does ray-traced AO stand for?
14 What is the AO?

15 A Ambient occlusion.

16 Q And is that another feature that makes
17 games look more realistic and is part of ray
18 tracing?

19 A Yeah, ray tracing has an umbrella of
20 different ways it can be implemented, and ambient
21 occlusion is one of those.

22 Q And is another feature of ray tracing
23 shadows, ray-traced shadows?

24 A It is, yes.

25 Q And is there another feature that

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1 Nvidia offers as part of its GPUs called Ansel,
 2 A-N-S-E-L?
 3 A Yes.
 4 Q What is Ansel?
 5 A Ansel is a technology that lets you
 6 take in-game snapshots, like, Ansel Adams; that's
 7 where the brand came from.
 8 Q [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 Q Is it important for you as the head of

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1 Nvidia gaming that Activision games incorporate
 2 Nvidia features and are performant within Nvidia
 3 GPU features?
 4 A Well, in terms of being performant, we
 5 want our customers to have the best experience and
 6 we want Activision's customers, so performant
 7 is -- and compatibility is something we strive for
 8 regardless.
 9 You know, the -- in terms of features,
 10 I think it's -- it is important for us to
 11 differentiate our products through features, and
 12 part of the objective of the agreement is to -- is
 13 to put our features in gamers' hands.
 14 Q Do other chip makers other than Nvidia
 15 also supply chips for use in video game consoles
 16 and PC?
 17 A They do.
 18 Q And do other chip makers also market
 19 features associated with their chipsets for
 20 console or PC?
 21 A They do.
 22 Q And when Nvidia collaborates with --
 23 let's use Activision as an example, is that an
 24 exclusive collaboration, or is Activision also
 25 free to collaborate with a different chip maker?

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1 A It depends --
 2 MR. BONANNO: Objection to form.
 3 THE WITNESS: -- depends -- it depends
 4 on the agreement and the title. I -- I --
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED].
 10 BY MR. WEINGARTEN:
 11 Q Did Nvidia collaborate with Activision
 12 regarding using Nvidia GPU features in Call of
 13 Duty: Modern Warfare II?
 14 A We've engaged with a few Call of Dutys
 15 over the course of time. I believe that's
 16 correct. I don't -- I don't recall specifically
 17 the exact engagement with Modern Warfare II.
 18 Q And thinking about the engagements with
 19 Activision in regard to collaborating on
 20 development of Activision titles, what's the
 21 timeline for those collaborations from start to --
 22 to launch of a game?
 23 A Generally --
 24 MR. BONANNO: Objection to form.
 25 THE WITNESS: Generally speaking, these

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 That's across the board. I don't
 9 recall specifically to Activision.
 10 BY MR. WEINGARTEN:
 11 Q And putting aside the marketing
 12 engagement length, how long would the typical
 13 engineering collaboration time be as you're trying
 14 to collaborate on an Activision title?
 15 A Yeah, I -- I'm not differentiating
 16 Activision titles because I don't know anything
 17 specific to Activision titles that is different
 18 than other titles, but engineering engagement
 19 could start up to a year and a half in advance, a
 20 year in advance. I think it's more typical of --
 21 it would be six, seven months in advance.
 22 Q I want to ask you a few questions about
 23 a Teams video call that happened in January of
 24 this year with the United Kingdom government
 25 agency.

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<p style="text-align: right;">Page 42</p> <p>1 So on January 9th, 2023, you</p> <p>2 participated in a video conference call with the</p> <p>3 United Kingdom Competition and Markets Authority;</p> <p>4 right?</p> <p>5 A I -- yeah, I believe -- I don't -- I</p> <p>6 believe that's the date, but, yes, I did</p> <p>7 participate in a call, yeah.</p> <p>8 Q If I refer to that as the CMA, will you</p> <p>9 understand I'm referring to that UK regulator?</p> <p>10 A Yes.</p> <p>11 Q Do you recall, sir, that you were</p> <p>12 informed at the beginning of that call that it's a</p> <p>13 criminal offense under UK law to supply the CMA</p> <p>14 with information that is false or misleading in a</p> <p>15 material respect if you do so knowingly or</p> <p>16 objectively?</p> <p>17 MR. BONANNO: Objection to form.</p> <p>18 Mr. Weingarten, are you suggesting that</p> <p>19 you're an expert in UK law and are proffering</p> <p>20 something about the significance of saying</p> <p>21 something to the CMA? What are we doing right</p> <p>22 now?</p> <p>23 BY MR. WEINGARTEN:</p> <p>24 Q I'm asking if you remember being told</p> <p>25 that.</p>	<p style="text-align: right;">Page 44</p> <p>1 truthful and accurate to the best of your ability?</p> <p>2 A Yes.</p> <p>3 Q Do you think the information that</p> <p>4 Nvidia provided was truthful and accurate?</p> <p>5 A I do.</p> <p>6 Q Let's just take a quick look. If</p> <p>7 refresh, sir -- do you have PX3103?</p> <p>8 A I do, yes.</p> <p>9 Q And if you look at the first page, it</p> <p>10 says, Competition and Markets Authority,</p> <p>11 Microsoft/Activision Merger Inquiry, Notes of a</p> <p>12 call with Nvidia held via MS Teams on Monday, 9</p> <p>13 January 2023.</p> <p>14 Do you see that?</p> <p>15 A I do, yes.</p> <p>16 Q And among the people listed as present,</p> <p>17 there's a list for Nvidia and your name appears,</p> <p>18 Jeff D. Fisher.</p> <p>19 Do you see that?</p> <p>20 A I do.</p> <p>21 Q Have you seen this document before?</p> <p>22 A Have not.</p> <p>23 Q Okay. We may refer to it periodically,</p> <p>24 but you can put it aside for a second.</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 43</p> <p>1 A I don't recall the specific language of</p> <p>2 that call, no.</p> <p>3 Q Do you think it would refresh your</p> <p>4 recollection about whether you were told that if</p> <p>5 you looked at a transcript of that call?</p> <p>6 A I'm not sure it would refresh my</p> <p>7 recollection of what was specifically said, but</p> <p>8 I'm happy to look at a transcript if . . .</p> <p>9 MR. WEINGARTEN: Let's please introduce</p> <p>10 Plaintiff's Exhibit 3103.</p> <p>11 (PX Deposition Exhibit 3103 was</p> <p>12 identified for the record and attached to the</p> <p>13 transcript.)</p> <p>14 BY MR. WEINGARTEN:</p> <p>15 Q While we're waiting for that to load,</p> <p>16 sir, I have a quick question for you.</p> <p>17 Do you remember talking to the CMA in</p> <p>18 January of 2023?</p> <p>19 A I do, yes.</p> <p>20 Q And when you made statements to the</p> <p>21 CMA, were you trying to be truthful and accurate</p> <p>22 to the best of your ability?</p> <p>23 A Yes.</p> <p>24 Q When Nvidia or you provided information</p> <p>25 to the CMA during that call, did you try to be</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Don't close it out, please. We'll see</p> <p>2 if we need to go back.</p> <p>3 Would you agree -- I want to talk to</p> <p>4 you about cloud gaming more generally, sir.</p> <p>5 Would you agree that cloud gaming</p> <p>6 extends video gaming to users with lesser</p> <p>7 computing PCs?</p> <p>8 A I would, yes.</p> <p>9 Q Would you agree that cloud gaming</p> <p>10 extends video gaming to users who have non-Windows</p> <p>11 devices?</p> <p>12 A I would, yes.</p> <p>13 Q And would you agree that in your</p> <p>14 experience what you have seen is that GeForce NOW</p> <p>15 is not cannibalistic as a high-end video gaming</p> <p>16 client business?</p> <p>17 A At the time I agree with that, yes.</p> <p>18 Q And why do you say "at the time"? Do</p> <p>19 you have a different view -- what is "at the time"</p> <p>20 referring to?</p> <p>21 A I -- I don't have a view of the future,</p> <p>22 but it -- it could over time.</p> <p>23 Q Is that your view today; that GeForce</p> <p>24 NOW is not cannibalistic to the high-end video</p> <p>25 game client business?</p>

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<p style="text-align: right;">Page 46</p> <p>1 A Yes.</p> <p>2 Q Is it your view today that cloud gaming</p> <p>3 is expansive to the video game business?</p> <p>4 A Yes.</p> <p>5 Q And does expansive mean that cloud</p> <p>6 gaming spans the total addressable market for</p> <p>7 high-end video games beyond high-performance</p> <p>8 consoles and PCs?</p> <p>9 A That's what I believe, yes.</p> <p>10 Q Would you agree that GeForce NOW's</p> <p>11 customers are generally using lower end PCs and</p> <p>12 not the expensive video-powered video gaming PCs?</p> <p>13 A Lower end and incompatible systems.</p> <p>14 Q And when you say "incompatible," you</p> <p>15 mean, again, non-Windows-based PCs?</p> <p>16 A That's correct.</p> <p>17 Q So, for example, GeForce NOW customers</p> <p>18 can play PC games -- high-end PC games on MAC</p> <p>19 devices; right?</p> <p>20 A That's correct.</p> <p>21 Q And a GeForce NOW customer can play a</p> <p>22 high-performing video game on Chromebook; right?</p> <p>23 A That's correct.</p> <p>24 Q Would you agree that GeForce NOW is</p> <p>25 bringing the 4000 chipset and the class of games</p>	<p style="text-align: right;">Page 48</p> <p>1 Does cloud gaming improve accessibility</p> <p>2 for new users to access and play high-end video</p> <p>3 games.</p> <p>4 A Yes.</p> <p>5 Q Does GeForce NOW do that, too?</p> <p>6 A Yes, that's my belief.</p> <p>7 Q Do you believe that cloud gaming is an</p> <p>8 opportunity to expand access and simplicity of</p> <p>9 gaming to new users by moving gaming to the cloud?</p> <p>10 A I -- I do, yes.</p> <p>11 Q Do you believe that cloud gaming will</p> <p>12 ultimately reduce costs for users to play high-end</p> <p>13 games by moving the games to the cloud?</p> <p>14 A On the cost to the users, yes.</p> <p>15 Q I think we touched on this a little bit</p> <p>16 before, but would you agree that Nvidia's cloud</p> <p>17 gaming offering offers a superior gaming</p> <p>18 experience to Xbox Series X?</p> <p>19 A I do, yes, similar --</p> <p>20 Q Do you believe it offers --</p> <p>21 A Similar to or --</p> <p>22 MR. BONANNO: Excuse me. Excuse me.</p> <p>23 Mr. Weingarten, please let the witness finish his</p> <p>24 answer.</p> <p>25 MR. WEINGARTEN: I was pausing. You</p>
<p style="text-align: right;">Page 47</p> <p>1 that are optimized for that chipset to new</p> <p>2 customers?</p> <p>3 A I do, yes.</p> <p>4 Q And new customers means customers who</p> <p>5 would not otherwise be able to play those games</p> <p>6 via a high-end gaming PC or console?</p> <p>7 A They may not own -- either choose to or</p> <p>8 afford to own an high-end Windows gaming PC,</p> <p>9 correct.</p> <p>10 Q Would you agree that the vast majority</p> <p>11 of GeForce NOW users are new to gaming or do not</p> <p>12 have a high-end PC?</p> <p>13 A I -- I -- the latter, do not have a</p> <p>14 high-end PC.</p> <p>15 Q Would you agree that many GeForce NOW</p> <p>16 users are, in fact, new to gaming altogether?</p> <p>17 A I don't have any data to support that,</p> <p>18 but I -- I do believe accessibility does bring new</p> <p>19 gamers to high-end PC gaming, yes.</p> <p>20 Q I'm sorry, sir. I didn't quite hear</p> <p>21 that.</p> <p>22 Will you repeat the last of it, sir?</p> <p>23 A Yeah, I do believe that accessibility</p> <p>24 does bring in new gamers to high-end PC gaming.</p> <p>25 Q So GeForce NOW improves -- strike that.</p>	<p style="text-align: right;">Page 49</p> <p>1 interrupted my interruption.</p> <p>2 BY MR. WEINGARTEN:</p> <p>3 Q Go ahead, sir.</p> <p>4 A Sorry. I would say similar to or</p> <p>5 better than depending on what tier of service you</p> <p>6 have on GeForce NOW.</p> <p>7 Q Would you agree that GeForce NOW offers</p> <p>8 a higher quality gaming experience than</p> <p>9 PlayStation 5 console?</p> <p>10 A Yeah, once again it depends on the tier</p> <p>11 of service, but I believe we had the capability</p> <p>12 of -- a tier of service that is better, yes.</p> <p>13 Q And do you believe that GeForce NOW</p> <p>14 offers a tier of service to users that offers a</p> <p>15 better quality gaming experience than a Nintendo</p> <p>16 Switch can offer?</p> <p>17 A Yes. I mean, it's a much more</p> <p>18 challenging comparison. The Switch features</p> <p>19 mobility. It has -- it goes after a different</p> <p>20 customer base, but, I mean, in its purest form in</p> <p>21 terms of the game experience, yes.</p> <p>22 Q What do you mean when you say the</p> <p>23 Switch goes after a different customer base?</p> <p>24 A The -- the Switch is a handheld</p> <p>25 portable game device. I mean, that's its primary</p>

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<p style="text-align: right;">Page 50</p> <p>1 position. That's its primary use.</p> <p>2 It can be used as a console, but most</p> <p>3 people would buy a Switch for its portability, and</p> <p>4 you don't need to be connected to anything to play</p> <p>5 it. And, so, it has a -- has a different buyer,</p> <p>6 in many ways, than what a PC owner or a PC gamer</p> <p>7 may have as their purchase motivation.</p> <p>8 Q And are you -- would you say it's fair</p> <p>9 that the -- in your understanding, a buyer of a</p> <p>10 high-end PC -- high-end gaming PC is interested in</p> <p>11 gaming performance more than a buyer of a Nintendo</p> <p>12 Switch?</p> <p>13 MS. ARNOLD: Objection to form. Lack</p> <p>14 of foundation.</p> <p>15 THE WITNESS: Yeah, I -- you know, a PC</p> <p>16 gamer wants to play competitive games and AAA</p> <p>17 cinematic high-end games.</p> <p>18 The Switch is more for individual</p> <p>19 entertainment. You're playing games for</p> <p>20 entertainment, but they're different. In many</p> <p>21 ways they're -- you know, they're different</p> <p>22 motivations, and many people will own both.</p> <p>23 BY MR. WEINGARTEN:</p> <p>24 Q And when you say "own both," you mean</p> <p>25 own a high-end gaming PC and own a Switch?</p>	<p style="text-align: right;">Page 52</p> <p>1 heard -- you know, there -- it would depend on the</p> <p>2 objection.</p> <p>3 Q Are there objections to the quality of</p> <p>4 cloud streaming that you think have merit?</p> <p>5 A You know, once again, it would depend</p> <p>6 on the objection. The -- cloud gaming requires --</p> <p>7 it -- latency is something we talked about, and if</p> <p>8 you're in a remote part of the country or world,</p> <p>9 cloud gaming may not be the best answer for you</p> <p>10 today. If you are in a populated part of the</p> <p>11 world nearby service, I -- I don't believe that</p> <p>12 there's any objections that are noteworthy for</p> <p>13 cloud gaming.</p> <p>14 Q So to the extent that a user is in a</p> <p>15 populated part of the United States, do you</p> <p>16 believe that there are -- that objections to the</p> <p>17 quality of cloud gaming for such user have merit?</p> <p>18 A Yeah. A populated part where data</p> <p>19 centers or -- or cloud gaming servers exist.</p> <p>20 MS. ARNOLD: And I just -- if I can get</p> <p>21 an objection to form to that question.</p> <p>22 You can go ahead.</p> <p>23 BY MR. WEINGARTEN:</p> <p>24 Q And I'm sorry, sir. Was the answer you</p> <p>25 think objections to quality would have merit in</p>
<p style="text-align: right;">Page 51</p> <p>1 A Yes.</p> <p>2 Q Do you have any understanding of</p> <p>3 whether the Switch is targeting a different kind</p> <p>4 of user as opposed to the user or gamer targeted</p> <p>5 by an Xbox Series X or a PlayStation 5?</p> <p>6 A I don't -- I -- I -- I guess I'm not</p> <p>7 that familiar with Microsoft and Sony's</p> <p>8 positioning or how -- how they segment their</p> <p>9 buyers. Just as -- as a user, my experience in</p> <p>10 the industry, I would say they are -- they are --</p> <p>11 there is some overlap, but they're different</p> <p>12 gaming experiences, generally.</p> <p>13 Q Would you agree that the quality of</p> <p>14 cloud gaming already matches or exceeds the</p> <p>15 quality of local gaming?</p> <p>16 A The -- the -- it -- yes, it can for</p> <p>17 sure.</p> <p>18 Q Would you agree that the quality of</p> <p>19 cloud gaming is only going to improve with time?</p> <p>20 A Yes. Yes, I would agree with that.</p> <p>21 Q Okay. Would you agree that objections</p> <p>22 to the quality of cloud streaming for games do not</p> <p>23 have merit?</p> <p>24 A It -- it depends -- I would say it</p> <p>25 depends on the objection. I don't -- I think I've</p>	<p style="text-align: right;">Page 53</p> <p>1 that circumstance or not have merit?</p> <p>2 A Most of --</p> <p>3 MR. BONANNO: I lost track of what the</p> <p>4 question is. I just want to make sure the record</p> <p>5 is clear.</p> <p>6 Do you want to reask that,</p> <p>7 Mr. Weingarten? I don't know what the question is</p> <p>8 that we're referring to -- or at least me.</p> <p>9 Jeff -- if you know the answer,</p> <p>10 Mr. Fisher, obviously feel free. I was confused.</p> <p>11 THE WITNESS: We might want to reset if</p> <p>12 we could, yeah.</p> <p>13 BY MR. WEINGARTEN:</p> <p>14 Q Sure. If that suffices.</p> <p>15 With respect to a user of cloud</p> <p>16 streaming services to play video games in a</p> <p>17 populated area of the United States reasonably</p> <p>18 close to a cloud gaming data center, do you think</p> <p>19 objections to the quality of the user experience</p> <p>20 over cloud gaming in that circumstance have merit</p> <p>21 or do not have merit?</p> <p>22 MS. ARNOLD: Objection to form. Lack</p> <p>23 of foundation. Vague. Calls for a hypothetical.</p> <p>24 THE WITNESS: From my perspective,</p> <p>25 there are objections -- I'm not aware of all the</p>

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<p style="text-align: right;">Page 54</p> <p>1 objections. I think generally speaking the</p> <p>2 experience that you described is one -- is as good</p> <p>3 as a local client. There are still issues being</p> <p>4 worked out with cloud gaming; that the cloud</p> <p>5 gaming experience will improve over time.</p> <p>6 BY MR. WEINGARTEN:</p> <p>7 Q GeForce NOW competes with Xbox cloud</p> <p>8 gaming; correct?</p> <p>9 A We -- we have different business</p> <p>10 models, and we -- we go after customers</p> <p>11 differently, but, you know, Xbox -- xCloud is a --</p> <p>12 is another cloud gaming service.</p> <p>13 Q Well, do you view xCloud as a</p> <p>14 competitor to GeForce NOW for attracting gamers</p> <p>15 who want to game using cloud streaming?</p> <p>16 A Yes.</p> <p>17 Q When you say Xbox cloud gaming has a</p> <p>18 different business model than GeForce NOW, what</p> <p>19 did you mean?</p> <p>20 A Well, at the moment, Microsoft bundles</p> <p>21 xCloud as a feature of a tier of their Game Pass</p> <p>22 along with other features so customers may or may</p> <p>23 not be buying that tier for cloud gaming, whereas</p> <p>24 our service is a -- purely a cloud gaming service.</p> <p>25 Our customers come to us just for that service.</p>	<p style="text-align: right;">Page 56</p> <p>1 A They used to, yes.</p> <p>2 Q You say "used to" because -- did Google</p> <p>3 Stadia shut down?</p> <p>4 A They did, yes.</p> <p>5 Q Before Google Stadia shut down and it</p> <p>6 was still operating, would you consider Google</p> <p>7 Stadia to have been a competitor to GeForce NOW to</p> <p>8 attract users --</p> <p>9 A I would --</p> <p>10 Q -- to cloud (indiscernible) --</p> <p>11 A Sorry.</p> <p>12 THE COURT REPORTER: I'm sorry. The</p> <p>13 last of that. "Google Stadia to have been a</p> <p>14 competitor to GeForce NOW --"</p> <p>15 BY MR. WEINGARTEN:</p> <p>16 Q To attract users to cloud gaming</p> <p>17 streaming.</p> <p>18 A Yes, I would.</p> <p>19 Q Would you agree, sir, that it's</p> <p>20 inevitable that gamers will ultimately move</p> <p>21 from -- well, strike that.</p> <p>22 Would you agree it's inevitable that</p> <p>23 gamers who want to play high-end games will move</p> <p>24 their play into the cloud because of the economics</p> <p>25 to them of playing over the cloud?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Given GeForce NOW's business model,</p> <p>2 would you agree that cloud game streaming is not</p> <p>3 necessarily just a feature of a console offering?</p> <p>4 A I'm not sure I -- can you rephrase</p> <p>5 that? I'm not sure I understand the question.</p> <p>6 Q Okay. GeForce NOW offers cloud gaming</p> <p>7 streaming independent of any subscription service;</p> <p>8 correct?</p> <p>9 A It's purely a cloud gaming service. It</p> <p>10 doesn't have any other products or features tied</p> <p>11 to it outside of cloud gaming.</p> <p>12 Q Does GeForce NOW compete with Amazon</p> <p>13 Luna for users who want to play games over the</p> <p>14 cloud?</p> <p>15 A I would say yes.</p> <p>16 Q Does GeForce NOW compete with</p> <p>17 PlayStation's cloud offering for users who wanted</p> <p>18 to play games over the cloud?</p> <p>19 A In the same sense that we do xCloud,</p> <p>20 yes, we do.</p> <p>21 Q And are you familiar with a business</p> <p>22 called Google Stadia?</p> <p>23 A I am, yes.</p> <p>24 Q Does Google Stadia offer cloud</p> <p>25 streaming of video games?</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. ARNOLD: Object to form. Vague and</p> <p>2 lack of foundation.</p> <p>3 THE WITNESS: Okay. Can I answer that?</p> <p>4 BY MR. WEINGARTEN:</p> <p>5 Q Yes, you may answer.</p> <p>6 A Okay. Sorry. I believe it's</p> <p>7 inevitable. Over the course of time more and more</p> <p>8 gaming will be resident in the cloud, and</p> <p>9 economics is one part of it, but it may not be the</p> <p>10 only motivation.</p> <p>11 Q And when you say "economics," are you</p> <p>12 referring to the idea that it's more economical</p> <p>13 for a gamer to play a high-end game via a cloud</p> <p>14 streaming service like GeForce NOW versus</p> <p>15 purchasing a high-performance PC or a</p> <p>16 high-performance console?</p> <p>17 A When I say "economics," that's --</p> <p>18 that -- when I refer to economics, that's how --</p> <p>19 that's how I'm referring to it is, yes. But</p> <p>20 again, that's -- I don't see it as the only</p> <p>21 motivation.</p> <p>22 Q Would you agree that there's strong and</p> <p>23 growing demand for cloud gaming streaming?</p> <p>24 A Cloud game streaming is still in its</p> <p>25 early days. It is -- there is a -- it is strong.</p>

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1 It is growing, but it is on a -- it -- it is -- it
2 is still in early days. It is -- it -- you know,
3 relative to the size of gaming, it's still a very
4 small part of the market.

5 Q Would you agree that it -- that cloud
6 gaming is poised for success?

7 A I do believe over the course of time
8 cloud gaming is going to become an important
9 platform for gaming, yes.

10 Q And do you have any time frame in mind
11 when you say "over the course of time"?

12 Is it 5 years, 10 years, 20?

13 A Yes.

14 Q Fair.

15 A Yes, over the course of time.

16 Q All right. Any more specific you can
17 put to "over the course of time"?

18 A I -- I don't at the moment, no.

19 Q Okay. Would you agree that cloud
20 gaming is not a hypothetical and speculative
21 business that is unlikely to succeed?

22 A I -- I don't -- let's see. Can you --
23 I want to make sure I answer that right.

24 Q Okay.

25 A I believe -- I believe it is not

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1 speculative, and I believe it will ultimately be
2 successful, yes.

3 Q Thank you.

4 Do you agree that the key impediment to
5 competition and growth in cloud gaming is the
6 availability of content for cloud games to stream?

7 A I think that's a very important
8 component, yes.

9 Q Would you agree that some games are
10 more important than others to offer to gamers if
11 you want to have a successful cloud streaming
12 service?

13 A I -- I do that -- I do believe that,
14 yes.

15 Q Would you categorize some franchises of
16 games as must-have games for a cloud streaming
17 service to be successful?

18 MS. ARNOLD: Object to form.

19 THE WITNESS: There are -- I -- I --
20 people -- people buy PCs and sign up for services
21 to play games, and if the games they want to play
22 are not available, whether it be on PC or on -- on
23 game streaming services, they're unlikely to
24 subscribe or stay a subscriber.

25 BY MR. WEINGARTEN:

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1 Q Do you think that Activision Blizzard
2 games -- I'm using the whole company there --
3 Activision Blizzard, Inc. games are important
4 games to be able to offer on cloud streaming to
5 attract gamers?

6 A I do believe they're important games to
7 offer, yes. They are important games within the
8 PC gaming ecosystem and on our -- on our
9 GeForce-direct clients and, therefore, important
10 in a cloud gaming service.

11 Q And when you say "GeForce-direct
12 clients," do you mean clients who buy the GeForce
13 chips directly and install them in their PCs?

14 A Yes.

15 Q As opposed to the GeForce NOW client
16 who is not buying the chipset but renting, as it
17 were, the use of the chipset via the cloud?

18 A Correct.

19 Q Has GeForce NOW launched any of its
20 service on televisions as endpoints?

21 A Which -- I'm sorry. Did you say
22 GeForce NOW or --

23 Q Yes, sir.

24 Has GeForce NOW launched any service on
25 televisions as the endpoint for users to access

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1 the service?

2 A Yes.

3 Q Which televisions?

4 A It's available in some models of
5 Samsung televisions and LG televisions. It's also
6 available in our streaming device, Nvidia Shield,
7 that connects to televisions.

8 Q And the Nvidia Shield device, what is
9 that?

10 A It's a stream -- well, I -- it's a
11 streamer that is an Android TV-based streamer for
12 all of your popular streaming services. It also
13 features GeForce NOW as a -- as a service.

14 Q And, so, to the extent that GeForce NOW
15 is not included as a service with a TV, a user can
16 buy the Shield device and plug it in and stream
17 GeForce NOW through their TV?

18 A That's correct.

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]

2 Q And if a user is accessing high-end

3 games using GeForce NOW for their TV, does the

4 user need to buy a high-performance PC to do that?

5 A If -- can you -- sorry. Can you

6 restate that?

7 Q Yeah.

8 If a user -- sorry. Let me put this

9 this way. Let me strike that.

10 A user can play high-performing games

11 just using a television without a high-performance

12 PC attached if they subscribe to GeForce NOW using

13 their TV; right?

14 A That's correct.

15 Q And they can do that without having a

16 high-performance console if they subscribe to

17 GeForce NOW using the TV; right?

18 A They can get access to the games that

19 are available on GeForce NOW that way, but console

20 as you know is different -- may have different

21 offerings.

22 Q Right.

23 But if someone wants to play Call of

24 Duty: Modern Warfare II, they can stream that game

25 on their TV if GeForce NOW is on the TV or they

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1 install the Shield without having to have a

2 console device; right?

3 A Not at the moment, no, because Call of

4 Duty is not available on GeForce NOW.

5 Q Ah.

6 If one -- if a user wants to play a

7 game that is available on GeForce NOW, they can

8 play that game using their TV for GeForce NOW.

9 GeForce NOW is installed on the TV or using the

10 Shield device without needing to have a console

11 also attached to the TV; right?

12 A That's correct with the caveat they

13 must also own -- own the game, but, yes.

14 Q Do you -- strike that.

15 Okay. Would you agree that it's just

16 no question that cloud gaming has a profitable

17 future?

18 MS. ARNOLD: Object to form.

19 THE WITNESS: It's my strong belief

20 that cloud gaming has a profitable future, yes.

21 BY MR. WEINGARTEN:

22 Q Would you agree that the ability for

23 users to share the processing power of a GPU in

24 the cloud means that the economics from the user's

25 perspective are in favor of games streaming on

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1 cloud versus in a console or high-end PC?

2 A I'm sorry. Can you -- can you just

3 restate it?

4 Q Yeah.

5 You -- you're aware that on GeForce NOW

6 in certain tiers of the offering users can share

7 GPU processing power to play their games; right?

8 A They can -- today a PC -- I mean, in --

9 in -- and in -- gamers can share a PC. When a PC

10 is not being used in the cloud, another gamer can

11 use it.

12 Is that -- maybe that's what you're

13 asking or . . .

14 Q As part of GeForce NOW's tiers, do

15 users get access to GPU processing power?

16 A Yes.

17 Q And is it possible as part of the

18 economics of the offering that more than one user

19 can actually be using the same GPU?

20 A It's -- it's more typical that a

21 user -- one user is using one GPU, but it is

22 possible that two users could be using one GPU,

23 yes.

24 Q And given the ability to share GPUs,

25 does that mean the economics of the cloud offering

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1 are going to continue to improve versus the

2 economics of having one GPU per user in a PC or a

3 console?

4 A Yes, that is my expectation.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 MR. BONANNO: Mr. Weingarten, can I
 10 interject? We've been going, I think, about an
 11 hour and 20 minutes. It's probably a good time
 12 for a breaking point.
 13 THE WITNESS: I'm about to need a --
 14 MR. WEINGARTEN: That would be fine.
 15 THE WITNESS: -- bio break. Yeah, that
 16 would be great.
 17 MR. WEINGARTEN: Let's go off the
 18 record, please.
 19 THE VIDEOGRAPHER: Okay. We're going
 20 off the record. The time is 1722 UTC, and this
 21 concludes media unit 1.
 22 (Recess -- 10:23 a.m.)
 23 (After recess -- 10:34 a.m.)
 24 THE VIDEOGRAPHER: We are back on the
 25 record. The time is 1734 UTC, and this begins

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1 media 2.
 2 BY MR. WEINGARTEN:
 3 Q Does your organization at Nvidia
 4 conduct market research about -- to inform its
 5 sale of services to users of high-end gaming PCs?
 6 A We -- we do some market research, yes.
 7 Q Okay. And do you believe that the
 8 high-end gaming PC offers a better quality gaming
 9 experience than an Xbox Series X or PS5 can offer?
 10 A I -- I do. You know, I do, yes.
 11 Q And based on your experience leading
 12 the gaming business at Nvidia, do you believe that
 13 the different types of gamers use high-end gaming
 14 PCs versus a console like an Xbox X or a PS5 to
 15 play their games?
 16 MS. ARNOLD: Object to form. Vague.
 17 THE WITNESS: Generally, there is
 18 individuals who -- who like to sit on a couch
 19 using a controller playing games, and there's
 20 gamers who like to play with keyboard and mouse,
 21 much more attuned for competitive gaming, and
 22 there's gamers who like both.
 23 But -- but there are somewhat slightly
 24 different experiences and uses for a console and
 25 PC that may appeal to one type of gamer or another

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1 or both may appeal to a gamer.
 2 BY MR. WEINGARTEN:
 3 Q When was the last time you met with
 4 Phil Eisler?
 5 MR. BONANNO: Objection to form.
 6 THE WITNESS: I -- I talked to Phil
 7 probably two days ago. I -- I -- you know, it's
 8 remote. A lot of us are working remote, so . . .
 9 BY MR. WEINGARTEN:
 10 Q When is the last time you received a
 11 GeForce NOW business review?
 12 MR. BONANNO: Objection to form.
 13 Mr. Weingarten, do you want to clarify
 14 whether you mean receive the actual document or
 15 participate in the presentation?
 16 BY MR. WEINGARTEN:
 17 Q Well, when is the last time you had a
 18 communication with anyone about a GeForce NOW
 19 business review?
 20 A I was -- two days ago, I was asked if
 21 there was a -- there was a meeting set for a
 22 business review yesterday. I was tied up in
 23 customer meetings all day, and I was asked if I
 24 was going to attend it -- attend a GeForce NOW
 25 business review, and I informed them I would not

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1 be able to join because I was tied up for the day.
 2 Q Did you receive a copy of the
 3 presentation that was given at that meeting
 4 regarding GeForce NOW business review?
 5 A I would expect I have access to one.
 6 I -- I don't know if it's in my inbox or not.
 7 I've been kind of buried.
 8 Q Okay.
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 7 Q Okay. You can -- you can put that
 8 aside for a moment, sir. We may turn back to it.
 9 A Okay.
 10 Q Are you familiar with a company -- a
 11 game developer called Bethesda?
 12 A I am, yes.
 13 Q And is Bethesda also known as ZeniMax?
 14 A Yeah, I don't -- they're -- we refer to
 15 them somewhat interchangeably. ZeniMax, I think,
 16 is a holding company. I'm not sure exactly,
 17 though.
 18 Q And is Bethesda a game developer and
 19 publisher?
 20 A They are, yes.
 21 Q And did Bethesda have titles on GeForce
 22 NOW during GeForce NOW's beta period?
 23 A They did, yes.
 24 [REDACTED]
 25 [REDACTED]

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 21 Q Have you heard of a game called
 22 Minecraft?
 23 A Yes.
 24 Q And was Minecraft in GeForce NOW as
 25 a -- strike that.

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1 Was Minecraft available through GeForce
 2 NOW during GeForce NOW's beta phase?
 3 A There was a version of Minecraft,
 4 Mojang, that was available on GeForce NOW, yes.
 5 Q And after GeForce NOW's beta phase
 6 ended, did Microsoft remove Minecraft from GeForce
 7 NOW?
 8 A Yes.
 9 Q Let's talk about Activision, please.
 10 We talked earlier about co-marketing
 11 and bundling agreements between Nvidia and
 12 Activision; right?
 13 A Yes.
 14 Q And in negotiating co-marketing and
 15 bundling with Activision, would Nvidia also
 16 discuss bringing Activision games to GeForce NOW?
 17 A Yes.
 18 Q Okay. During the GeForce NOW beta
 19 period, were Activision games available on GeForce
 20 NOW?
 21 A Yes, some Activision games.
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16 Q Okay. You can put that one aside.
17 Microsoft announced that it would be
18 acquiring Activision in January 2022; correct?
19 A I -- around -- yeah. I don't recall
20 exactly the date, but, yes.
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1 [REDACTED]
 2 [REDACTED]
 3 Q Okay. And were you aware in December
 4 of 2022 that the Federal Trade Commission had
 5 filed a lawsuit to block Microsoft's acquisition
 6 of Activision?
 7 MR. BONANNO: Objection. Privileged.
 8 Mr. Fisher, please -- you can respond
 9 to the question to the extent you gained knowledge
 10 from sources that did not involve either outside
 11 counsel or Nvidia's in-house counsel only.
 12 If you only can answer the question
 13 with respect to privileged communications, I'm
 14 instructing you not to answer the question.
 15 MR. WEINGARTEN: That is not how the
 16 privilege works. Is he aware of a fact in the
 17 universe?
 18 MR. BONANNO: If it comes from --
 19 MR. WEINGARTEN: A fact --
 20 MR. BONANNO: -- lawyers, it's
 21 privileged. It's privileged. I instructed --
 22 MR. WEINGARTEN: Okay.
 23 MR. BONANNO: -- him specifically if he
 24 knows how to answer the question based on
 25 independent knowledge outside of discussions with

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1 lawyers, he's free to answer the question.
 2 If the only way he knows a fact is
 3 based on a discussion with me, someone in-house,
 4 one of my associates, then he can't answer the
 5 question. That's exactly how the privilege works.
 6 MR. WEINGARTEN: We're going to --
 7 BY MR. WEINGARTEN:
 8 Q Can you answer the question given that
 9 instruction, sir?
 10 A I -- I -- yeah, because, I mean,
 11 generally, I'm not that knowledgeable about what
 12 is a -- what is -- how the FTC works or even the
 13 European commissions, but I was aware that the
 14 acquisition was under review by the FTC. I
 15 couldn't have stated what -- what was the current
 16 status of that review.
 17 Q And was the fact that the FTC was
 18 reviewing the acquisition part of the impetus for
 19 your email in December to Mr. Spencer?
 20 MR. BONANNO: Objection. Privileged.
 21 Don't answer that question, Mr. Fisher.
 22 BY MR. WEINGARTEN:
 23 Q I'm going to ask you, other than a
 24 conversation with a lawyer that may have been
 25 involved, did you make a decision to send the

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<p style="text-align: right;">Page 94</p> <p>1 email to Mr. Spencer?</p> <p>2 MR. BONANNO: Objection. Privileged.</p> <p>3 Do not answer that question.</p> <p>4 If privileged advice had anything to do</p> <p>5 with the ultimate decision that Mr. Fisher made,</p> <p>6 you're not entitled to the answer to that</p> <p>7 question. And you know that, Mr. Weingarten.</p> <p>8 Come on.</p> <p>9 MR. WEINGARTEN: No, I'm trying to ask</p> <p>10 around that.</p> <p>11 BY MR. WEINGARTEN:</p> <p>12 Q So putting aside any privileged advice</p> <p>13 from a lawyer, was the fact that Microsoft was</p> <p>14 under a regulatory review for its Activision deal</p> <p>15 proposal part of why you sent that email to</p> <p>16 Mr. Spencer in December 2022?</p> <p>17 MR. BONANNO: Objection. Privileged.</p> <p>18 If you have a good-faith basis to</p> <p>19 believe the witness consulted with counsel and</p> <p>20 then made a business decision, you can't say what</p> <p>21 factors played into your decision to do whatever</p> <p>22 you did --</p> <p>23 MR. WEINGARTEN: I said --</p> <p>24 MR. BONANNO: -- that involved legal</p> <p>25 advice.</p>	<p style="text-align: right;">Page 96</p> <p>1 Let's move on.</p> <p>2 MR. WEINGARTEN: He said he had</p> <p>3 independent knowledge of the review. He already</p> <p>4 testified to that. That he knew --</p> <p>5 MR. BONANNO: It was on the front page</p> <p>6 of the Wall Street Journal, New York Times, pick</p> <p>7 your newspaper.</p> <p>8 MR. WEINGARTEN: Exactly.</p> <p>9 BY MR. WEINGARTEN:</p> <p>10 Q So does the fact --</p> <p>11 MR. BONANNO: Wait.</p> <p>12 BY MR. WEINGARTEN:</p> <p>13 Q -- that you had independent knowledge,</p> <p>14 sir, of the review --</p> <p>15 MR. BONANNO: Okay.</p> <p>16 BY MR. WEINGARTEN:</p> <p>17 Q -- play into your --</p> <p>18 MR. BONANNO: Pause -- pause for a</p> <p>19 second. You're telling me if he reads the</p> <p>20 newspaper and then goes and consults with in-house</p> <p>21 counsel and decides to embark upon a negotiation</p> <p>22 strategy after that discussion with counsel, the</p> <p>23 fact that he read it in the newspaper somehow</p> <p>24 dissolves the privilege that it attaches from the</p> <p>25 company's conversation?</p>
<p style="text-align: right;">Page 95</p> <p>1 MR. WEINGARTEN: I have --</p> <p>2 MR. BONANNO: No, no.</p> <p>3 You can't answer.</p> <p>4 MR. WEINGARTEN: I have no idea --</p> <p>5 MR. BONANNO: Reframe your question in</p> <p>6 a way that's intelligible that wouldn't invoke</p> <p>7 privileged information.</p> <p>8 BY MR. WEINGARTEN:</p> <p>9 Q Without referencing any information you</p> <p>10 learned from your attorneys, did you make a</p> <p>11 decision to email Mr. Spencer in 2022 because you</p> <p>12 had learned that the FTC was reviewing the</p> <p>13 acquisition -- Activision deal?</p> <p>14 MR. BONANNO: Mr. Fisher, only answer</p> <p>15 the question if you've never discussed the</p> <p>16 Activision deal and its pending regulatory reviews</p> <p>17 with Nvidia's lawyers.</p> <p>18 If you can't do that --</p> <p>19 MR. WEINGARTEN: That's not privileged.</p> <p>20 MR. BONANNO: Mr. Weingarten,</p> <p>21 frankly --</p> <p>22 MR. WEINGARTEN: We're moving on.</p> <p>23 MR. BONANNO: -- your questions on this</p> <p>24 point -- your questions on this point are not</p> <p>25 proper, and you know that.</p>	<p style="text-align: right;">Page 97</p> <p>1 That's not how this works at all.</p> <p>2 MR. WEINGARTEN: I'm not asking about</p> <p>3 the content of the conversation.</p> <p>4 MR. BONANNO: Mr. Fisher --</p> <p>5 MR. WEINGARTEN: A fact in the universe</p> <p>6 does not become privileged just because you talk</p> <p>7 about that fact with a lawyer. That's ridiculous.</p> <p>8 Everybody knows that.</p> <p>9 MR. BONANNO: You're asking him his</p> <p>10 motivation for taking an action that was informed</p> <p>11 by advice of counsel.</p> <p>12 MR. WEINGARTEN: We haven't even</p> <p>13 established that.</p> <p>14 BY MR. WEINGARTEN:</p> <p>15 Q Did you send that email to Mr. Spencer</p> <p>16 in December because you received advice from</p> <p>17 counsel first?</p> <p>18 MR. BONANNO: Objection. Privilege.</p> <p>19 You can't say did you get advice on something.</p> <p>20 You can't do that. You're -- substance --</p> <p>21 MR. WEINGARTEN: I can't?</p> <p>22 MR. BONANNO: You're baking</p> <p>23 substance --</p> <p>24 MR. WEINGARTEN: I'm not --</p> <p>25 MR. BONANNO: -- into --</p>

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1 MR. WEINGARTEN: -- asking --
 2 MR. BONANNO: -- the question.
 3 MR. WEINGARTEN: -- for the substance.
 4 I'm asking for the subject matter.
 5 MR. BONANNO: Let me finish my point.
 6 You cannot ask questions that say in the
 7 predicate, did you ever receive legal advice about
 8 X. That is a subject matter that would require
 9 the revelation of legal advice.
 10 MR. WEINGARTEN: Oh, my goodness. What
 11 do you think a privilege log does? Okay.
 12 MR. BONANNO: Mr. Fisher, I'm
 13 instructing you not to answer the question.
 14 If you want to ask him has he ever
 15 gotten legal advice related to the regulatory
 16 transaction, I will let him answer that question
 17 yes or no.
 18 MR. WEINGARTEN: That's a silly
 19 question. I'm not asking that. All right.
 20 MR. BONANNO: Well, that's the normal
 21 path you would start with before going down the
 22 path you've done.
 23 MR. WEINGARTEN: Yep.
 24 BY MR. WEINGARTEN:
 25 Q Mr. Fisher, were you happy when the

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1 deal and excited about the deal with Microsoft
 2 when it was executed.
 3 A Yes, I was.
 4 Q Do you believe that that deal brings a
 5 critical mass of AAA content to GeForce NOW that
 6 will attract gamers?
 7 MS. ARNOLD: I'll object to the form.
 8 I'm asking which deal you're asking about.
 9 MR. WEINGARTEN: Microsoft's GeForce
 10 NOW listing agreement with Activision.
 11 BY MR. WEINGARTEN:
 12 Q Sorry. Microsoft's -- strike that.
 13 Nvidia's GeForce NOW listing agreement
 14 with Microsoft, do you believe that deal brings a
 15 critical mass of AAA content to users of GeForce
 16 NOW?
 17 A I'm not sure what a critical mass
 18 denotes, but it does bring some incredibly
 19 important content that is -- it is highly desired
 20 by GeForce NOW gamers -- potential gamers.
 21 Q Okay. Microsoft had taken its games
 22 off of GeForce NOW after the beta phase ended and
 23 in 2023 agreed to bring its first-party content
 24 back.
 25 What changed --

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1 MS. ARNOLD: Objection. Lack --
 2 BY MR. WEINGARTEN:
 3 Q -- in your opinion?
 4 MS. ARNOLD: -- (inaudible).
 5 Argumentative and form.
 6 BY MR. WEINGARTEN:
 7 Q You can answer.
 8 MR. BONANNO: Can you restate the
 9 question? Are you asking Mr. Fisher what
 10 Microsoft's motivations were?
 11 MR. WEINGARTEN: No.
 12 BY MR. WEINGARTEN:
 13 Q I'm --
 14 MR. BONANNO: I guess I didn't --
 15 BY MR. WEINGARTEN:
 16 Q -- asking --
 17 MR. BONANNO: -- follow the question.
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED].
 24 [REDACTED]
 25 [REDACTED]

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 9 [REDACTED]
 10 [REDACTED]
 11 Q Now, pursuant to the listing agreement
 12 that Microsoft and Nvidia executed in 2023,
 13 Microsoft is putting its first-party games on
 14 GeForce NOW; correct?
 15 A Yes.
 16 Q And my question is, do you have any
 17 understanding or knowledge of why that change
 18 occurred?
 19 MS. ARNOLD: Same objection, and add
 20 lack of foundation.
 21 THE WITNESS: Well, I -- I -- Microsoft
 22 is wanting -- wanting to open up competition in
 23 the cloud gaming space, make their games available
 24 to more gamers.
 25 BY MR. WEINGARTEN:

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1 Q And do you think that's something --
 2 strike that.
 3 Is that something that was -- well,
 4 strike that.
 5 After signing the GeForce NOW listing
 6 agreement with Microsoft -- well, strike that.
 7 You signed the GeForce NOW listing
 8 agreement with Microsoft; correct?
 9 A I did, yes.
 10 Q Okay. After signing, did you have any
 11 communications with anyone from Microsoft about
 12 how Nvidia would support Microsoft's acquisition
 13 of Activision?
 14 A I don't think so, no.
 15 Q Okay. Did you talk to Mr. Eisler about
 16 what supporting Microsoft's Activision deal would
 17 entail?
 18 MR. BONANNO: Mr. Fisher, I just
 19 caution you, you can answer that question yes or
 20 no. And then from any point forward,
 21 Mr. Weingarten I'm sure will clarify whether you
 22 were just talking to Mr. Eisler and whether there
 23 were attorneys involved and around any
 24 conversations that were happening.
 25 THE WITNESS: I'm not sure I understand

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1 the question, though. I mean, I talk to
 2 Mr. Eisler quite often in the course of a day.
 3 But what's his question?
 4 BY MR. WEINGARTEN:
 5 Q The GeForce NOW listing agreement
 6 between Microsoft and Activision states that --
 7 strike that.
 8 The GeForce NOW listing agreement
 9 between Microsoft and Nvidia says that [REDACTED]
 10 [REDACTED]
 11 right?
 12 A Yes.
 13 Q Okay. And since that deal was
 14 executed, is it your understanding that Nvidia
 15 supports Microsoft's acquisition of Activision?
 16 A As it -- I mean, the -- I think the
 17 topic we were talking about is cloud gaming, so as
 18 it relates to -- yes.
 19 Q Okay.
 20 A As it's stated in the document, yes, I
 21 believe that's still to be the case.
 22 Q Do you have an understanding, yes or
 23 no, what is entailed in supporting Microsoft's
 24 acquisition of Activision?
 25 A I don't, no.

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1 Q Okay. As part of resolving Nvidia's --
 2 well, strike that.
 3 Prior to executing GeForce NOW listing
 4 agreement with Microsoft [REDACTED]
 5 with Microsoft, Nvidia had expressed concerns
 6 about Microsoft's acquisition of Activision;
 7 correct?
 8 A As it relates to cloud gaming, yes.
 9 Q Okay. And as part of resolving
 10 Nvidia's concerns about the impact of the
 11 Activision acquisition on cloud gaming, Nvidia
 12 [REDACTED]
 13 [REDACTED]
 14 MS. ARNOLD: Object to form.
 15 THE WITNESS: That's correct.
 16 BY MR. WEINGARTEN:
 17 [REDACTED]
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 4 THE WITNESS: After this questions --
 5 or set of questions, can we take a break? Just
 6 put a --
 7 MR. WEINGARTEN: Why don't we go off
 8 the record and take our break now, please.
 9 THE WITNESS: Okay. All right.
 10 THE VIDEOGRAPHER: Okay. We are going
 11 off the record. The time is 1839 UTC, and this
 12 concludes media unit 2.
 13 (Lunch recess -- 11:39 a.m.)
 14 (After lunch recess -- 12:16 p.m.)
 15 THE VIDEOGRAPHER: We are back on the
 16 record at 1916 UTC, and this begins media 3.
 17 BY MR. WEINGARTEN:
 18 Q Mr. Fisher, are you familiar with a
 19 company called Boosteroid?
 20 A I'm familiar with Boosteroid, yeah.
 21 Q And is Boosteroid a cloud game
 22 streaming company?
 23 A My -- my -- well, my knowledge of
 24 Boosteroid is that they have a PC -- somewhat of
 25 a -- more of a rent-a-PC in the cloud service, but

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1 it's capable of gaming, and I think they position
 2 it primarily for gaming.
 3 Q Do you know if Boosteroid offers its
 4 services in the United States?
 5 A They're European based. They may have
 6 recently announced in the United States. I'm
 7 not -- I'm not certain.
 8 Q Do you consider Boosteroid to be a
 9 competitor in the cloud gaming streaming market?
 10 A I do. They're also a customer. We
 11 sell them product to host our service as well.
 12 Q Do you know how many users Boosteroid
 13 has?
 14 A I don't.
 15 [REDACTED]
 16 [REDACTED]
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 19 [REDACTED]
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 21 [REDACTED]
 22 Q Have you heard of a company called
 23 Ubitus?
 24 A I'm familiar with Ubitus as well, yes.
 25 Q What is Ubitus?

<p style="text-align: right;">Page 118</p> <p>1 A Ubitus is -- is another cloud gaming</p> <p>2 service company.</p> <p>3 Q Do you know if Ubitus offers its</p> <p>4 services in the United States?</p> <p>5 A I'm not aware of an offering in the</p> <p>6 United States. It's possible, but I don't -- I</p> <p>7 don't believe -- I believe they are focused on</p> <p>8 other regions.</p> <p>9 Q Okay.</p> <p>10 MR. WEINGARTEN: I think I'm ready to</p> <p>11 pass the witness and reserve my time. That means</p> <p>12 it is Ms. Arnold's time, and then I'll come back</p> <p>13 if I need to.</p> <p>14 Thank you, Mr. Fisher.</p> <p>15 THE WITNESS: You can do that? You can</p> <p>16 come back?</p> <p>17 MR. WEINGARTEN: I can.</p> <p>18 MR. BONANNO: He has to stay within the</p> <p>19 scope of Ms. Arnold's questioning, though. We'll</p> <p>20 see where it goes.</p> <p>21 MR. WEINGARTEN: I appreciate your</p> <p>22 time, Mr. Fisher. Thank you.</p> <p>23 THE WITNESS: Thanks, James.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 120</p> <p>1 press statement before it was released?</p> <p>2 A I'm sure I reviewed it before it was</p> <p>3 released, yes.</p> <p>4 MS. ARNOLD: Okay. If we could pull up</p> <p>5 RX0299.</p> <p>6 (RX Deposition Exhibit 0299 was</p> <p>7 identified for the record and attached to the</p> <p>8 transcript.)</p> <p>9 THE WITNESS: Okay. Yeah, I'm still</p> <p>10 waiting for it.</p> <p>11 BY MS. ARNOLD:</p> <p>12 Q It just popped up on my screen, so I</p> <p>13 think you should have it shortly.</p> <p>14 A Okay. I'm opening it. All right. I</p> <p>15 have it open.</p> <p>16 Q If you could just take a look at that,</p> <p>17 Mr. Fisher, and let me know if you recognize this</p> <p>18 document or the statement contained in the</p> <p>19 document.</p> <p>20 A Yes.</p> <p>21 Q And what is it?</p> <p>22 A This is a release related to the</p> <p>23 agreement we signed with Microsoft.</p> <p>24 Q Dated February 21st, 2023; is that</p> <p>25 right?</p>
<p style="text-align: right;">Page 119</p> <p>1 EXAMINATION BY COUNSEL FOR MICROSOFT CORPORATION</p> <p>2 BY MS. ARNOLD:</p> <p>3 Q Good afternoon, Mr. Fisher. How are</p> <p>4 you?</p> <p>5 A I'm doing well, thanks, Keri.</p> <p>6 Q I think you heard my name is Keri</p> <p>7 Arnold, and I represent Microsoft in this case. I</p> <p>8 have a few follow-up questions for you. I think</p> <p>9 they'll be shorter than Mr. Weingarten's</p> <p>10 questioning period.</p> <p>11 So we talked a little about the fact</p> <p>12 that Nvidia and Microsoft entered into a listing</p> <p>13 agreement for GeForce NOW in February of 2023;</p> <p>14 correct?</p> <p>15 A That's correct.</p> <p>16 Q And that listing agreement, you signed</p> <p>17 it; is that correct?</p> <p>18 A I did, yes.</p> <p>19 Q And do you recall that you, along with</p> <p>20 Microsoft, issued a statement in the press after</p> <p>21 that agreement was signed?</p> <p>22 A Yes.</p> <p>23 Q You have a chance to review that</p> <p>24 agreement before -- excuse me. Strike that.</p> <p>25 Did you have a chance to review that</p>	<p style="text-align: right;">Page 121</p> <p>1 A That is correct.</p> <p>2 Q The first paragraph of this document</p> <p>3 states, On Tuesday, Microsoft and Nvidia announced</p> <p>4 the companies have agreed to a ten-year</p> <p>5 partnership to bring Xbox PC gamers the Nvidia</p> <p>6 GeForce NOW cloud gaming service which has more</p> <p>7 than 25 million members in over 100 countries.</p> <p>8 Was that part of the press release that</p> <p>9 you agreed to issue after the agreement was</p> <p>10 signed?</p> <p>11 A Yes. And, you know, I'm sorry to be</p> <p>12 particular for the record. It's Nvidia.</p> <p>13 Q I should say the letter N first and</p> <p>14 then "vidia"; is that right?</p> <p>15 A That's how it's pronounced, yeah.</p> <p>16 Q I apologize, and I will try to do</p> <p>17 better as I go forward in my questioning.</p> <p>18 A Oh, thank you.</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>

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 11 [REDACTED]
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14 Q And in this instance, Nvidia and
 15 Microsoft agreed to a ten-year partnership; is
 16 that true?

17 A That's correct.

18 Q The -- the press release mentioned that
 19 Xbox PC games would now be available to more than
 20 25 million members in over 100 countries.

21 Is that 25 million referring to the
 22 number of members or participants in the Nvidia
 23 GeForce NOW streaming service?

24 A Yes. We've had -- we've had 25 million
 25 people over the course of time sign up and use

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1 GeForce NOW, and we refer to that number as the
 2 number of members.

3 Q And as a result of this agreement --
 4 the listing agreement, Xbox PC games would now be
 5 available to those users; is that correct?

6 A That's correct.

7 Q All right. If you would turn now to
 8 the second page of that press release, RX0299-002.

9 A Okay.

10 Q And there's a statement at the top of
 11 that page that is attributed to you, and just take
 12 a moment to review the statement and confirm that
 13 that was a statement you made.

14 A (Witness reviews document.)

15 MR. BONANNO: Mr. Fisher, feel free to
 16 review any part of the press release or document
 17 in front of you, you need to review before
 18 answering the question.

19 BY MS. ARNOLD:

20 Q Please.

21 A Yeah, that's a statement that I -- that
 22 I reviewed and approved for this draft.

23 Q And it states, Combining the incredibly
 24 rich catalog of Xbox first-party games with
 25 GeForce NOW's high-performance streaming

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1 capabilities will propel cloud gaming into a
 2 mainstream offering that appeals to all gamers at
 3 all levels of interest and experience.

4 Let me pause there and ask you what you
 5 meant when you stated that this would propel cloud
 6 gaming into a mainstream offering?

7 A Well, by bringing -- first of all,
 8 the -- you know, this is all a marketing
 9 statement, so I -- I will -- the intent of this --
 10 of my quote is to express how -- the problem cloud
 11 gaming solves in terms of reach and accessibility.
 12 And the -- one of the things that cloud gaming
 13 needs to really expand its reach and desirability
 14 is -- is content so that gamers of all types will
 15 find content on the service compelling.

16 So -- so, I mean, bringing Activision
 17 and Blizzard titles to GeForce NOW will really --
 18 I believe will really increase the desirability of
 19 the service for more and more gamers.

20 Q And, indeed, you went on to say that
 21 this offering would now be available to gamers at
 22 all levels of interest and experience; is that
 23 correct?

24 A Yes. Cloud gaming is -- you know, we
 25 have a free tier. It's really easy to join and

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1 try, and to the extent that games that they want
 2 to play are available, it's a great entry point
 3 for many gamers.

4 Q You went on to say, Through this
 5 partnership, more of the world's most popular
 6 titles will now be available from the cloud with
 7 just a click, playable by millions more gamers.

8 Did I read that correctly?

9 A Yes.

10 Q Was that a true statement at the time
 11 and now as well?

12 A Once they're available, yes.

13 Q The next paragraph states, The
 14 partnership delivers increased choice to gamers
 15 and resolves Nvidia's concerns with Microsoft's
 16 acquisition of Activision Blizzard. Nvidia,
 17 therefore, is offering its full support for
 18 regulatory approval of the acquisition.

19 Is that still a true statement for
 20 Nvidia sitting here today?

21 A It is.

22 Q Do you believe that the
 23 Microsoft-Activision Blizzard deal is good for
 24 gamers?

25 MR. WEINGARTEN: Objection to form.

<p style="text-align: right;">Page 126</p> <p>1 THE WITNESS: I -- I'm not -- do I</p> <p>2 believe that Microsoft-Activision is good for</p> <p>3 gamers? I -- I think it is. I don't -- I don't</p> <p>4 think it's -- I think it's good for the industry,</p> <p>5 and generally speaking I have no issue with the</p> <p>6 Microsoft Activision -- the Microsoft acquisition</p> <p>7 of Activision.</p> <p>8 BY MS. ARNOLD:</p> <p>9 Q Okay. Fair enough.</p> <p>10 You were asked earlier in your</p> <p>11 deposition today about the testimony that you gave</p> <p>12 in January of 2023 to the Competition and Markets</p> <p>13 Authority relating to concerns that Nvidia had at</p> <p>14 the time concerning the Activision-Microsoft deal.</p> <p>15 Do you recall those questions?</p> <p>16 A I -- I -- I don't. Can you -- sorry.</p> <p>17 Can you restate that?</p> <p>18 Q Yeah. Sure.</p> <p>19 You were asked earlier today about</p> <p>20 testimony that you gave at CMA in January of 2023</p> <p>21 about the Activision-Microsoft transaction.</p> <p>22 Do you recall those questions?</p> <p>23 A I recall -- earlier today, yeah, I</p> <p>24 recall Mr. Weingarten asking me about the CMA,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 128</p> <p>1 know the timing of the second hearing.</p> <p>2 Q Are you -- do you know, though, that</p> <p>3 representatives of Nvidia did give testimony at</p> <p>4 some point in time after the listing agreement was</p> <p>5 signed?</p> <p>6 Are you aware that that happened?</p> <p>7 A I -- I -- I aware -- I'm aware there</p> <p>8 was other conversations between Nvidia and CMA</p> <p>9 that could have been that testimony. I don't</p> <p>10 know -- recall specifically.</p> <p>11 Q And do you have any reason to believe</p> <p>12 that representatives of Nvidia who would have</p> <p>13 testified at that hearing would have provided</p> <p>14 anything but truthful and accurate testimony?</p> <p>15 A I -- I don't have any --</p> <p>16 MR. WEINGARTEN: Objection.</p> <p>17 Sorry, sir.</p> <p>18 Objection. Form. Foundation.</p> <p>19 You can answer.</p> <p>20 THE WITNESS: Okay. I don't have any</p> <p>21 reason to believe that.</p> <p>22 BY MS. ARNOLD:</p> <p>23 Q I'm going to ask you -- I'm going to</p> <p>24 read a few statements to you, and I'd like you to</p> <p>25 tell me if you agree or disagree with them, okay?</p>
<p style="text-align: right;">Page 127</p> <p>1 Q And you were asked by Mr. Weingarten</p> <p>2 whether you provided truthful and accurate</p> <p>3 testimony at the time of that hearing; correct?</p> <p>4 A Yes.</p> <p>5 Q And to be clear, that hearing took</p> <p>6 place before Nvidia and Microsoft had entered into</p> <p>7 the GeForce NOW -- excuse me, the GeForce NOW</p> <p>8 listing agreement [REDACTED]; is</p> <p>9 that correct?</p> <p>10 A Yes.</p> <p>11 Q Mr. Weingarten also asked if -- whether</p> <p>12 you believed at that hearing in January of 2023,</p> <p>13 whether or not Nvidia, not just you, but other</p> <p>14 people that spoke on behalf of Nvidia provided</p> <p>15 truthful and accurate testimony at that hearing,</p> <p>16 and I think you said, yes.</p> <p>17 Is that correct?</p> <p>18 A I don't know if he phrased it quite</p> <p>19 that way, but that's my belief, yes.</p> <p>20 Q All right. Do you have an</p> <p>21 understanding that representatives of Nvidia gave</p> <p>22 testimony to the CMA at a second hearing at the</p> <p>23 end of February of 2023?</p> <p>24 A I don't -- was I involved -- I don't</p> <p>25 believe I was involved in that hearing, so I don't</p>	<p style="text-align: right;">Page 129</p> <p>1 A Okay.</p> <p>2 Q This deal in referring to the listing</p> <p>3 agreement that we've been talking about is a real</p> <p>4 game changer for gamers and an incredible catalyst</p> <p>5 for cloud gaming.</p> <p>6 Agree or disagree?</p> <p>7 MR. WEINGARTEN: Objection to form.</p> <p>8 Vague.</p> <p>9 THE WITNESS: I -- I agree.</p> <p>10 BY MS. ARNOLD:</p> <p>11 Q The potential merger of Activision with</p> <p>12 Microsoft is a good thing for cloud gaming for</p> <p>13 your business and for gamers.</p> <p>14 MR. WEINGARTEN: Objection to form.</p> <p>15 THE WITNESS: I agree -- I agree with</p> <p>16 that statement.</p> <p>17 BY MS. ARNOLD:</p> <p>18 Q Do you believe that the pending merger</p> <p>19 of Activision with Microsoft will be a catalyst</p> <p>20 for the growth of gaming?</p> <p>21 MR. WEINGARTEN: Objection to form.</p> <p>22 THE WITNESS: Yeah, cloud gaming will</p> <p>23 be a -- the growth of cloud gaming is a catalyst</p> <p>24 for gaming, and so I -- I agree with that.</p> <p>25 BY MS. ARNOLD:</p>

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21 BY MS. ARNOLD:
22 Q I believe you testified earlier in the
23 deposition that it is your view that cloud gaming
24 is still in its early days; is that correct?
25 A Yes.

April 14, 2023

<p style="text-align: right;">Page 134</p> <p>1 Q And that cloud gaming is a very small</p> <p>2 part of the market at this point in time; is that</p> <p>3 your view?</p> <p>4 A It is.</p> <p>5 MR. WEINGARTEN: Objection to form.</p> <p>6 Sorry.</p> <p>7 Objection to form. Vague.</p> <p>8 BY MS. ARNOLD:</p> <p>9 Q During your testimony this morning, you</p> <p>10 also identified some competitors of Nvidia that</p> <p>11 compete for attracting gamers who want to play</p> <p>12 gaming on cloud streaming services.</p> <p>13 Do you remember those questions?</p> <p>14 A It's Nvidia. Sorry. I'll keep</p> <p>15 correcting you.</p> <p>16 Q I'm sorry. Nvidia.</p> <p>17 A It is my life, too.</p> <p>18 Yes, I recall those questions.</p> <p>19 Q And I believe you identified xCloud as</p> <p>20 one of your competitors; is that right?</p> <p>21 A Yes.</p> <p>22 Q Mr. Weingarten asked you about Luna, is</p> <p>23 that correct, in that you said that was a</p> <p>24 competitor?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 that are working on building their customer base.</p> <p>2 Q Blacknut, have you heard of that one?</p> <p>3 A Yeah, Blacknut is one.</p> <p>4 Q Parsec, if I'm pronouncing that</p> <p>5 correctly?</p> <p>6 A Parsec is more a B2B type of a product.</p> <p>7 It's not a customer -- an B2C service.</p> <p>8 Q Antstream Arcade?</p> <p>9 A It's a lower -- for low-end games,</p> <p>10 Antstream.</p> <p>11 Q PlayGiga, if I'm pronouncing that one</p> <p>12 correctly?</p> <p>13 A I've heard of PlayGiga. I'm not that</p> <p>14 familiar with PlayGiga.</p> <p>15 Q And I think you mentioned Boosteroid as</p> <p>16 well; is that correct?</p> <p>17 A Yeah, Mr. Weingarten had brought up</p> <p>18 Boosteroid.</p> <p>19 Q And a number of those companies</p> <p>20 actually entered the market or were starting their</p> <p>21 businesses relatively recently -- in the past ten</p> <p>22 years.</p> <p>23 Is that fair?</p> <p>24 A Yes.</p> <p>25 MR. WEINGARTEN: Objection to form.</p>
<p style="text-align: right;">Page 135</p> <p>1 Q He asked you after lunch --</p> <p>2 MR. WEINGARTEN: Objection. Sorry.</p> <p>3 Objection to form. Compound.</p> <p>4 BY MS. ARNOLD:</p> <p>5 Q He asked you about Ubitus after lunch.</p> <p>6 Do you recall that question?</p> <p>7 A Yes.</p> <p>8 Q And you confirmed that you consider</p> <p>9 Ubitus to be a competitor of Nvidia and GeForce</p> <p>10 NOW; is that correct?</p> <p>11 A I don't know that he asked specifically</p> <p>12 about being a competitor, but they are a cloud</p> <p>13 gaming service as well, yes.</p> <p>14 Q All right. And there are other cloud</p> <p>15 gaming services as well that we haven't talked</p> <p>16 about yet today; is that fair?</p> <p>17 A Yes.</p> <p>18 Q Can you think of any just sitting here</p> <p>19 today that we haven't talked about?</p> <p>20 A There's one called Shadow that we also</p> <p>21 work with as a customer and competitor, if you</p> <p>22 will.</p> <p>23 Q Anything else you can think of?</p> <p>24 A There -- not off the top of my head,</p> <p>25 but there are -- there are other smaller services</p>	<p style="text-align: right;">Page 137</p> <p>1 Foundation.</p> <p>2 THE WITNESS: It's fair.</p> <p>3 BY MS. ARNOLD:</p> <p>4 Q You were asked some questions earlier</p> <p>5 today again about Nvidia and GeForce NOW competing</p> <p>6 with xCloud.</p> <p>7 Do you recall Nvidia conducting or</p> <p>8 reviewing a competitive analysis looking at a</p> <p>9 comparison between xCloud and GeForce NOW?</p> <p>10 MR. BONANNO: Objection to form.</p> <p>11 MR. WEINGARTEN: Objection to form.</p> <p>12 Vague.</p> <p>13 THE WITNESS: I -- I -- we -- on</p> <p>14 occasion, we'll do a competitive mapping of -- of</p> <p>15 different services, so I'm -- I'm pretty certain</p> <p>16 that we've done that, yes.</p> <p>17 MS. ARNOLD: Let's pull up RX0285.</p> <p>18 (RX Deposition Exhibit 0285 was</p> <p>19 identified for the record and attached to the</p> <p>20 transcript.)</p> <p>21 THE WITNESS: Okay. I've got it up.</p> <p>22 BY MS. ARNOLD:</p> <p>23 Q All right. And just take a minute and</p> <p>24 let me know if you recall seeing this exchange</p> <p>25 before or if it looks familiar to you.</p>

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1 A (Witness reviews document.)
 2 I -- I don't -- I don't see my name on
 3 it. It does not look familiar to me, the --
 4 the -- this thread specifically.
 5 Q Okay. Do you recall an executive
 6 summary of an xCloud versus GFN competitive
 7 analysis around this time, May 2021?
 8 A Not specifically, no.
 9 Q That's fine. We can go ahead and take
 10 that document down.
 11 You were asked some questions earlier
 12 about -- well, strike that.
 13 GeForce NOW launched into its beta mode
 14 in 2017; is that correct?
 15 A Yes.
 16 Q And it transferred over from a beta
 17 mode to a commercialized pay mode in February of
 18 2020; is that correct?
 19 A Yes.
 20 Q And at that time, there were a number
 21 of publishers who asked to have their games
 22 removed from GeForce NOW; is that correct?
 23 A Yes.
 24 Q And Mr. Weingarten asked you about ABK
 25 pulling their content. Do you recall that?

Page 139

1 A A -- having who? A --
 2 Q Activision Blizzard.
 3 A Oh, yes.
 4 Q Okay.
 5 A Yes.
 6 Q And Microsoft?
 7 A Yes.
 8 Q And Bethesda as well; correct?
 9 A Yes, we had -- we -- some -- yes,
 10 that's correct.
 11 Q But just to be clear for the record,
 12 there were other companies, other publishers that
 13 did ask to have their content removed from GeForce
 14 NOW around that time period; is that correct?
 15 MR. WEINGARTEN: Objection to form.
 16 Vague.
 17 THE WITNESS: It -- it was not just
 18 Microsoft -- or not just Microsoft and ABK.
 19 BY MS. ARNOLD:
 20 Q Okay. Other companies included -- do
 21 you recall Rockstar Games asking for their content
 22 to be removed around that time?
 23 A I recall Grand Theft Auto may have been
 24 in one of the games. I don't recall all -- all
 25 the games.

Page 140

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 4 [REDACTED]
 5 Q And I think you said earlier, but
 6 correct me if I'm wrong, that it was up to ABK as
 7 to whether to put their games on GeForce NOW or
 8 not; is that correct?
 9 MR. WEINGARTEN: Object to form.
 10 Misstates the testimony.
 11 THE WITNESS: I'm not -- I'm not sure
 12 what the -- it -- it seems like it's answering
 13 itself, your question. I'm not sure exactly
 14 what . . .
 15 BY MS. ARNOLD:
 16 Q Sure.
 17 In other words, it would be ABK's
 18 decision whether or not to make a deal with Nvidia
 19 to put their games on GeForce NOW; right?
 20 That would -- that would be a decision
 21 they would have to make; is that correct?
 22 A I -- I -- maybe I don't under- -- it
 23 seems self-evident, but if that's the case, the
 24 answer is, yes.
 25 Q Okay. Do you know who Bobby Kotick is?

Page 142

1 A I know of Bobby Kotick. I don't know
2 him personally.

3 Q Okay. Do you know what his role is at
4 Activision Blizzard?

5 A He's CEO of Activision Blizzard.

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18 MS. ARNOLD: I think I may be almost
19 done with my questioning now. If we can take just
20 a ten-minute break, I will look at my notes and
21 hopefully wrap up shortly when I get back.
22 MR. WEINGARTEN: That's fine with me.
23 THE WITNESS: Okay.
24 THE VIDEOGRAPHER: Okay.
25 THE WITNESS: All of us break. Okay.

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1 Sure.

2 THE VIDEOGRAPHER: All right. We are
3 going off the record. The time is 1953 UTC, and
4 this concludes media unit 3.

5 (Recess -- 12:53 p.m.)

6 (After recess -- 1:03 p.m.)

7 THE VIDEOGRAPHER: We are back on the
8 record at 2003 UTC, and this begins media 4.

9 MS. ARNOLD: Mr. Fisher, thank you very
10 much for your time this afternoon. I don't have
11 any more questions for you right now although I
12 might have in response to anything that
13 Mr. Weingarten might ask.

14 But thank you for your time. I
15 appreciate that.

16 THE WITNESS: Thank you.

17 MR. WEINGARTEN: Mr. Fisher, I have a
18 few questions for you about some of the things
19 Ms. Arnold asked you.

20 EXAMINATION BY COUNSEL FOR THE
21 FEDERAL TRADE COMMISSION

22 BY MR. WEINGARTEN:

23 Q Ms. Arnold asked you about the term of
24 Nvidia's GeForce NOW listing deal with Microsoft.
25 Do you remember that?

Page 147

1 A I do, yes.

2 Q And the term that she discussed with
3 you for the GeForce NOW agreement with Microsoft
4 is for ten years; is that right?

5 A That's correct.

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9 Q And the difference is a positive one to
10 Nvidia; right?
11 A Yes.
12 Q Okay. Ms. Fisher [sic] also -- sorry.
13 Ms. Arnold also asked you about the 25 million
14 users' number in the press release announcing the
15 Microsoft-GeForce NOW listing agreement.
16 Do you remember that?
17 A Yes.
18 [REDACTED]
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13 [REDACTED]
14 Q So the 25 million number of members
15 include millions that have not used GeForce NOW
16 for a period of time; is that correct?
17 A That's correct.
18 Q And I believe you testified the
19 25 million number counts anyone who has ever
20 signed up for GeForce NOW whether or not they use
21 the service; correct?
22 A I believe it includes -- it is users
23 who have used -- signed up and uses the service.
24 Q At some point in the history of the
25 service; correct?

Page 150

1 A Correct.

2 Q Okay. Ms. Arnold asked you about

3 RX0290. Could you please bring that document up?

4 A Okay. It's up.

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 4 MR. WEINGARTEN: I don't -- I don't
 5 have any further questions pending Ms. Arnold's
 6 questioning.
 7 Thank you, sir.
 8 THE WITNESS: Thank you.
 9 MS. ARNOLD: I don't have anything
 10 further.
 11 MR. BONANNO: All right. Let me just
 12 say before we close the record again, Nvidia would
 13 like to have the transcript at the highest level
 14 of confidentiality under the case protective order
 15 and the applicable statutes and regulations.
 16 Thank you.
 17 MR. WEINGARTEN: I think we can go off
 18 the record.
 19 I would say thank you, again,
 20 Mr. Fisher, for your time.
 21 THE WITNESS: Thank you all.
 22 THE VIDEOGRAPHER: Okay. Let me take
 23 us off. All right.
 24 This concludes today's deposition. We
 25 are now off the record at 2013 UTC.

Page 155

1 Thank you, everyone.
 2
 3
 4 (Signature having not been waived, the
 5 Remote Videotaped Deposition of JEFF FISHER ended
 6 at 1:13 p.m.)
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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC
 2 I, Dana C. Ryan, Registered Professional
 3 Reporter, Certified Realtime Reporter, the officer
 4 before whom the foregoing proceedings were taken
 5 do hereby certify that the foregoing transcript is
 6 a true and correct record to the best of my
 7 ability of the proceedings; that said proceedings
 8 were taken by me stenographically and thereafter
 9 reduced to typewriting under my supervision; and
 10 that I am neither counsel for, related to, nor
 11 employed by any of the parties to this case and
 12 have no interest, financial or otherwise, in its
 13 outcome.
 14 IN WITNESS WHEREOF, I have hereunto set
 15 my hand and affixed my notarial seal this 17th day
 16 of April 2023.
 17 My Commission expires:
 18 November 23, 2024
 19
 20
 21 
 22 _____
 23 NOTARY PUBLIC IN AND FOR THE
 24 STATE OF ALABAMA
 25

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1 INSTRUCTIONS TO WITNESS
 2
 3 Please read your deposition over
 4 carefully and make any necessary corrections. You
 5 should state the reason in the appropriate space
 6 on the errata sheet for any corrections that are
 7 made.
 8 After doing so, please sign the errata
 9 sheet and date it.
 10 You are signing same subject to the
 11 changes you have noted on the errata sheet which
 12 will be attached to your deposition.
 13 It is imperative that you return the
 14 original errata sheet to the deposing attorney
 15 within thirty (30) days of receipt of the
 16 deposition transcript by you. If you fail to do
 17 so, the deposition transcript may be deemed to be
 18 accurate and may be used in court.
 19
 20
 21
 22
 23
 24
 25

April 14, 2023

<p>1 ERRATA SHEET</p> <p>2 IN RE: MICROSOFT CORPORATION, a corporation and</p> <p>3 ACTIVISION BLIZZARD, INC., a corporation</p> <p>4 RETURN BY: _____</p> <p>5 PAGE LINE CORRECTION AND REASON</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 (DATE) (SIGNATURE)</p>	Page 158
<p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, Jeff Fisher, do hereby acknowledge</p> <p>3 that I have read and examined the foregoing</p> <p>4 testimony, and the same is a true, correct and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me and any corrections appear on the attached</p> <p>7 Errata sheet signed by me.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 _____</p> <p>12 (DATE) (SIGNATURE)</p> <p>13</p> <p>14</p> <p>15 CERTIFICATE OF NOTARY PUBLIC</p> <p>16 Sworn and subscribed to before me this</p> <p>17 _____ day of _____, _____</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 NOTARY PUBLIC MY COMMISSION EXPIRES</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 159

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U.S. Fisher Highly Confidential

April 14, 2023

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